

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO. 08-1931-D

WILLIAM H. DIADAMO,
Plaintiff,

V.

THOMAS J. DUGGAN, JR.,
VALLEY PATRIOT, INC.,
MERRIMACK VALLEY RADIO, LLC,
MICHAEL SWEENEY,
WILLIAM MANZI, and
THOMAS SCHIAVONE,
Defendants.

**MEMORANDUM OF REASONS IN SUPPORT OF DEFENDANT MERRIMACK
VALLEY RADIO, LLC'S RENEWED MOTION TO COMPEL DISCOVERY FROM
PLAINTIFF AND/OR FOR SANCTION OF DISMISSAL OF CLAIMS**

INTRODUCTION

This is a defamation action brought by attorney William H. DiAdamo, acting pro se, based on statements made by defendant Thomas J. Duggan, Jr. on his “Paying Attention” radio program, broadcasted by defendant Merrimack Valley Radio, LLC (MVR) on WCAP 980 AM. The statements generally concerned DiAdamo’s legal representation of the City of Lawrence and the Greater Lawrence Sanitary District, and his handling of one particular workers’ compensation case brought against the City by an employee named Andrea Traficanti. The broadcast in question was made in August 2008, months after the City terminated DiAdamo as its attorney. DiAdamo filed this lawsuit in September 2008. The lawsuit claims that a number of statements made by Duggan were false – and in turn, MVR is defending this lawsuit by claiming their truth.

Throughout discovery, DiAdamo has refused to produce documents or answer certain interrogatories or deposition questions because the City of Lawrence had not waived the attorney-client privilege. As a result, MVR has been unable to discover information from DiAdamo and the City as to the truth or falsity of the allegedly defamatory statements. Additionally, DiAdamo has not produced even non-privileged documents or a privilege log. MVR previously moved to compel this discovery. After a hearing, the Court (Cornetta, J.) ruled that “The issue of attorney/client privilege between the plaintiff and any of his client(s), past or present, individual, municipal or corporate shall now be resolved by said plaintiff responding to all outstanding discovery, including the sitting for deposition, and in any instance where the plaintiff believes the privilege exists, he may lodge his objection and decline to answer. Thereupon, after amassing all of the plaintiff’s privilege objections and reducing the same to writing, the interrogating party may submit any such claim *it actually has reason to challenge* to this Court for hearing and ruling, after notice given.” Order (Exhibit A) (emphasis original).

MVR now renews its motion to compel DiAdamo to respond to outstanding discovery, or in the alternative for this Court to order a sanction of dismissal of DiAdamo’s claims. If the information that MVR seeks is protected by the attorney-client privilege, the burden rests with DiAdamo to secure a waiver and permit its use. If DiAdamo cannot secure such a waiver, then in the interest of fairness to the defendants, he should be able to bring this action and hide crucial information behind the shield of the attorney-client privilege. *Eckhaus v. Alfa-Laval, Inc.*, 764 F. Supp 34 (S.D.N.Y. 1991) (granting judgment for the defendant in a suit for defamation by its former in-house counsel on the grounds that there was a “substantial likelihood” that the former lawyer would use or disclose confidential information in the litigation).

FACTUAL BACKGROUND¹

DiAdamo is a lawyer admitted to the Massachusetts bar with an office located in Lawrence, Massachusetts. After graduating from the Boston University School of Law, DiAdamo practiced in the General Litigation Department of Burns and Levinson, LLP in Boston for nine years. Subsequently, in about 2000, he eventually joined his father, Carmine DiAdamo, whom he describes as “one of the most respected lawyers in Massachusetts,” in his practice based in Lawrence.

Duggan publishes a monthly newspaper called *The Valley Patriot* which maintains a related website, www.valleypatriot.com. Duggan also appears on a weekly radio show called “Paying Attention” which is broadcast on Saturday mornings from 10AM to noon on 980 WCAP, an AM radio station owned and operated by MVR.

Starting in 2007, DiAdamo began defending a worker’s compensation case brought by Andrea Traficanti. Traficanti was in a relationship with Frank McCann, the Lawrence Director of the Department of Public Works (DPW). McCann was also, by statute, a member of the Board of Commissioners of the Greater Lawrence Sanitary District (GLSD) due to his status as Director of DPW. Over several years, DiAdamo knew and had interaction with McCann for a variety of reasons: most of the Lawrence Worker’s compensation cases were brought by DPW workers; McCann sat on the GLSD Board, and; DiAdamo’s office is located immediately adjacent to City Hall, where McCann’s office was located, and the two would occasionally see each other in the courtyard connecting both buildings.

On August 23, 2008, Duggan broadcast a segment about DiAdamo on his talk show “Paying Attention” which was aired by MVR. The following is a transcript²:

¹ This factual background is based upon the Amended Complaint and the deposition of William H. DiAdamo, attached as Exhibit E.

“I’ve been sitting on a story now for a week and a half, two weeks and it involves Attorney DiAdamo and the City of Lawrence.”

Oh no! He’s talking about attorney DiAdamo. He’s in trouble. That guy’s got pull. He’s got big pull. Could be in trouble here. I don’t care.

I’ve got information now from the City of Lawrence from a number of other sources in the City of Lawrence that attorney DiAdamo who was representing the City of Lawrence during the Andrea Traficanti disability case is being accused of throwing the case and has been fired by the City of Lawrence because he is being accused of throwing the case.

What we have learned is that attorney DiAdamo admitted to at least two members of the Sullivan administration that he is best friends with Ms. McCann’s husband and that Ms. McCann’s husband was in his office discussing the case on numerous occasions prior to him representing the City on the case. So I did a little research because I didn’t really know who attorney DiAdamo is.

I know Carmine DiAdamo who has turned out to be his dad and I knew him very well from working on the School Committee and I always liked him an awful lot.” “I think he did an awful lot for the school system at the time. And I started doing research to find out who his son is.” “What does he do? And lo and behold, I get some information that attorney DiAdamo making 100k a year as the special counsel of the Greater Lawrence Sanitary District Now Jocko Ford is the counsel for the Greater Lawrence Sanitary District and I don’t know what he’s making but on top of that, attorney DiAdamo is making over \$100,000.

The City of Lawrence was paying him somewhere in the neighborhood of \$70 to \$75,000 dollars which means if nobody ever walks into this guy’s law firm to have him represent them in any kind of trial, he’s making 175,000 plus dollars a year with these two contracts alone.

And it’s going to be interesting to see if there is going to be a BBO complaint. My understanding is that it’s something that’s being bantered about and is very possible.

Surprise, surprise! “As I’m doing my research, I also find out you know it was the same attorney DiAdamo who was representing the City in the Lariviere case. What? In Methuen? The Lariviere case? Wow!

So now you’ve got he’s representing the City during the Traficanti case. He’s representing the City of Methuen during the Lariviere case, both of which he lost. And on top of that, he’s pulling down \$100,000 a year to show up at one meeting every two

² This is the transcription of oral statements alleged by DiAdamo, and therefore punctuation has been added to assist in readability and in no way is intended to alter meaning and MVR reserves the right to contest its accuracy.

months at the Greater Lawrence Sanitary District. You're going to be 'hearing' an awful lot more about story. Remember that you heard it here first.

Now I know that Jill Harmacinski is up at the Tribune taking notes and they are going to try to get it in the Tribune before we come out but they don't have the sources we have. So you pay attention to the Valley Patriot website. Pay attention to this program because as we get more information, and as we get closer to publication, I'm going to give you more of what I have on this story because there is more to the story. A lot more to this story and we're going to be breaking it for you as we can, as we can because I don't want to, I don't want to out my sources and if I gave you more stuff now, it would put people in a very compromising position. 978-454-4980.

How's that for a breaking news story guys? You like that one? They don't even care, one's reading and the other one's sleeping if it's not national and its not abortion, neither one of you guys care what we are talking about.

[Other person] I'm not sleeping Thomas. I'm ducking under the table. That's your story and you can run with it.

[Duggan] Well, I mean I'm not making any accusation at all. I'm telling you what's been told to us. It's been verified. It's verifiable and it's going to be something that's going to be talked about a great deal in other news media outlets over the next 2 or 3 weeks, I can promise you that.

DiAdamo alleged that numerous statements were false. Specifically:

- a. DiAdamo maintains he did not throw or lose the Traficanti case, and has not been accused of throwing the case.
- b. DiAdamo maintains he is not "best friends" with McCann. DiAdamo alleges he has no social relationship with McCann whatsoever, and McCann has never been the source of any money or referrals to DiAdamo or his office. He alleges the statement was made, recklessly, willfully and maliciously, to justify why DiAdamo would "throw" a case and lose at least one substantial client, and jeopardize his practice, for people with whom, in reality, he is merely acquainted.
- c. DiAdamo maintains he did not and does not make \$70,000 to \$75,000 per year representing Lawrence in worker's compensation- cases.

- d. DiAdamo maintains he did not and does not make \$100,000 a year as special counsel to the GLSD to attend meetings, and certainly not to show up to one meeting every two months.
- e. DiAdamo maintains he did not represent Methuen in *Lariviere v. Methuen, et al.*, Massachusetts Federal District Court Docket No. 05-11579EFH
- f. DiAdamo maintains no BBO complaint has been filed, and any such filing would be frivolous, without merit and would be met with a lawsuit similar to the instant case.

In the months before this broadcast in 2008, DiAdamo was in fact discharged by the City of Lawrence with regard to representing it in the Traficanti case. Upon information and belief, the Traficanti case is still being litigated before the Department of Industrial Accidents. Other counsel now represents the City of Lawrence. DiAdamo was reengaged by the City of Lawrence for various matters, including most of its workers compensation defense, in 2010.

PROCEDURAL AND DISCOVERY HISTORY

DiAdamo filed this action in September 2008. In November 2008, Michael Sweeney, the City's Director of Planning, signed an affidavit describing certain conversations he had with DiAdamo concerning the Traficanti case (Exhibit H). In January 2009, Thomas Schiavone, the City's Economic Development Director, signed a similar affidavit (Exhibit I). Both are now defendants.

On January 9, 2013, MVR timely served interrogatories, requests for documents, and a notice of DiAdamo's deposition. Subsequently, in June and July 2013, DiAdamo served his responses to the requests for production and his answers to interrogatories, which are attached respectively as Exhibits B and C. As shown by Exhibit B, Request Nos. 23-27 sought all documents concerning DiAdamo's communications with the City of Lawrence concerning his

handling of the Traficanti case and his employment by the City of Lawrence. However, DiAdamo objected to producing such documents on the grounds of attorney-client privilege and work product doctrine. Similarly, as shown by Exhibit C, DiAdamo objected to virtually every substantive interrogatory on the grounds of attorney-client privilege and/or work product doctrine. In addition, despite requests by MVR (Exhibit D), DiAdamo has not made documents available for review and has not produced any privilege log. *See also* DiAdamo Depo., Ex. E, 199:14-200:8 (suggesting that he would produce a privilege log for communications as well as documents). DiAdamo has unequivocally stated that he will not testify at his deposition as to the specifics of his handling of the Andrea Traficanti disability case or to communications between himself and the representatives of the City of Lawrence.

MVR moved to compel DiAdamo to respond to these discovery requests. After a hearing, the Court (Cornetta, J.) issued an order requiring the parties to continue discovery and to move again to compel after the issues had been further delineated. The Order also set March 31, 2014 as the final day of discovery. *See* Order, Ex. A. Following that Order, MVR continued DiAdamo's deposition (Exhibit E) and took the deposition of the City's personnel director, Frank Bonet (Exhibit F), and a former assistant city solicitor Richard D'Agostino (Exhibit G).

DiAdamo produced a letter signed by former Lawrence Mayor William Lantigua, sent during his term, purporting to waive the City's privilege. Despite the letter being silent as to this issue, DiAdamo represented to undersigned counsel that this waiver was contingent upon the issuance of a protective order. (Exhibit J). At his deposition, DiAdamo refused to answer a number of questions concerning the allegations in his complaint and the truth of the allegedly defamatory statements. The City represented Bonet and D'Agostino at their depositions, and

instructed both not to answer a number questions, citing both the existence of the attorney-client privilege and the ongoing nature of the Traficanti workers compensation case.

ARGUMENT

This Court should enter an order compelling DiAdamo to obtain a waiver of the attorney-client privilege from the City or should order the parties and the City to give force to the waiver signed and attached to this memorandum as Exhibit J. The truth of the statements concerning DiAdamo's handling of the Traficanti case as well as communications with representatives of the City of Lawrence are crucial to his *prima facie* defamation case and also highly relevant to MVR's affirmative defense of truth. Additionally, statements made by city employees concerning the reason for DiAdamo's termination in 2008 and background of the Traficanti case are also crucial. If DiAdamo is permitted to shield this critical information from disclosure, then in fairness to MVR (and the other defendants), DiAdamo's claims should be dismissed. This Court should not allow DiAdamo to bring this action, putting these matters at issue without securing a waiver, and still this hide essential information behind the attorney-client privilege.

I. MVR's discovery is highly relevant, and was put at issue by DiAdamo.

Under Mass. R. Civ. P. 26(b)(1), a party to an action is entitled to information "relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party." This broad language allows parties to make searching examinations into matters that may assist them in discovering relevant evidence. *Raytheon Co. v. Tully*, No. 1 Mass. L. Rptr. 620, 620-21, 1994 Mass. Super. LEXIS 516, 1994 WL 879778 (Super. Ct. 1994) (Houston, J.). Relevancy is construed broadly, encompassing "any matter that bears on, or reasonably could lead to other matter that could bear on, any issue that is or may be in the case." *Cronin v. Strayer*, 392 Mass.

525, 534 (1984); *see also Harris-Lewis v. Mudge*, No. SUCV 96-2349-F, 10 Mass. L. Rptr. 51, 1999 Mass. Super. LEXIS 142, 1999 WL 985589 (Super. Ct. 1999) (Fremont-Smith, J.).

Discovery is not limited to issues raised by pleadings or to the merits of a case, because discovery is designed to help define and clarify the issues and a variety of fact-orientated issues may arise during litigation that are not related to the merits. *Cronin*, 392 Mass. at 534; *see also Neles-Jamesbury, Inc. v. Liberty Mut. Ins. Co.*, 21 Mass. L. Rptr. 646, 648, 2006 Mass. Super. LEXIS 581, 2006 WL 3759507 (Super. Ct. 2006) (Agnes, J.) (“Unless it is clear that the information sought has no possible connection to the subject matter of the action, discovery should be allowed.”).

Here, it cannot be reasonably disputed that MVR’s discovery of DiAdamo’s handling of the Andrea Traficanti disability case, communications between him and representatives of the City of Lawrence, information concerning DiAdamo’s termination, and information about the Traficanti matter is highly relevant and necessary to determine the truth of Duggan’s statements, broadcast by MVR. Specifically, Duggan made claims concerning the belief of individuals within the City government about DiAdamo, his termination, and the handling of the Traficanti matter.

To prove his defamation claim, DiAdamo will need to demonstrate at trial that Duggan’s statements about DiAdamo are false. *See Dulgarian v. Stone*, 420 Mass. 843, 847 (1995) (private plaintiff has burden to prove statement false in defamation claim against media defendant). Conversely, to defend against DiAdamo’s defamation claim, MVR will need to present evidence that the statements were true. *Jones v. Taibbi*, 400 Mass. 786, 794 (1987) (“It is the truth of the underlying defamation that must be shown in order to establish the defense of truth.”). Thus, the

only question is whether or not the attorney-client privilege asserted by DiAdamo – which the City of Lawrence continues to invoke – shields this information from disclosure.

Broadly speaking, MVR seeks responses from DiAdamo to its requests for the production of documents and its interrogatories. MVR also seeks deposition testimony from DiAdamo and others.

A. Request for Production of Documents

DiAdamo asserted that he could not respond to a number of MVR's requests for documents because the requested documents were protected by the attorney-client privilege. *See* Response of the Pl. William H. DiAdamo to Merrimack Valley Radio LLC's's [sic] First Request for Production of Documents (Ex. B) ¶¶ 1, 4, 6, 24, 25, 26, 27, 28, 29. Perhaps the most egregious objection was to Request 4 which asked for "All documents and communications providing the basis for the allegations contained in the Amended Complaint." DiAdamo objected, *inter alia*, because it sought documents "protected by the Attorney-client privilege." *Id.* at 3. There could be no simpler request for documents. MVR is entitled to all documents that DiAdamo has that provide the basis for his allegations. There should be no privilege issue because the complaint is a public document. If there is a privilege issue, then the burden rested with DiAdamo to resolve that issue before bringing suit. He cannot make allegations and then refuse to support them based on the attorney-client privilege.

Additionally, contrary to Mass. R. Civ. P. 26(b)(5)(A), despite having had over a year, the plaintiff has not produced any privilege log cataloguing the documents being withheld. Moreover, the plaintiff has neither produced copies of responsive documents nor permitted an inspection of those documents.

MVR requests that this Court order the plaintiff to produce all documents responsive to its request, including those claimed to be protected by the attorney-client privilege.

B. Interrogatories

DiAdamo also objected to a number of interrogatories propounded by MVR. Answer of the Plaintiff William H. DiAdamo to the Interrogatories of the Defendant Merrimack Valley Radio LLC (Ex. C) ¶¶ 3, 10, 11, 14, 15, 16, 18. For the reasons set forth above, this Court should order DiAdamo to amend his answers to incorporate information withheld based on the attorney client privilege.

Additionally, DiAdamo refused to answer Interrogatories 19-30 claiming that subparts in previous interrogatories constituted independent questions. These objections based on Mass. R. Civ. P. 33(a)(2) are invalid. The subparts in Interrogatories 5, 6, and 7 specifically request details in an answer to an interrogatory and as such constitute legitimate subparts of one question and not separate and independent interrogatories. *Nessara Ins. Agency, Inc. v. New Eng. Serv. Station & Auto. Repair Ass'n*, No. WOCV11-1956, 2012 Mass. Super. LEXIS 100, 29 Mass. L. Rptr. 555 (Apr. 24, 2012) (Ricciardone, J.); *Mindes v. D. Masters Enters.*, No. WOCV07-1003, 2008 Mass. Super. LEXIS 351, 24 Mass. L. Rptr. 606 (Oct. 6, 2008) (Agnes, J.). Moreover, there was no statement pursuant to Sup. Ct. Standing Order 1-09(2), which requires DiAdamo, if he withheld information from his answer to “describe the nature of the information withheld and identify each objection asserted to justify the withholding.”

This Court should Order DiAdamo to respond in full to all the interrogatories propounded by MVR.

C. Depositions

In MVR's depositions of DiAdamo, Bonet, and D'Agostino, there were at least 7 areas about which they have refused to answer questions. These are set forth below, along with the reason that MVR requires this information.

1. The deponents refused to discuss conversations between DiAdamo and City employees (including the mayor, city attorneys, and even Traficanti's husband) concerning his representation of the City in the Traficanti matter. *E.g.* DiAdamo Depo. 187:22-188:13; 190:11-13; 192:23-193:9; 194:1-8; 214:8-215:8; 221:2-15; 229:15-231:21; 233:7-234:9. Duggan's allegedly defamatory statement claims that DiAdamo was accused of throwing the case. Moreover, Sweeny's and Schiavone's affidavits (Exs. H, I) also stated that based on conversations with DiAdamo, they believed him to be unprepared and unable (due to conflict) to handle the Traficanti matter appropriately. This information is necessary for MVR to establish the truth of the allegedly defamatory statements concerning the Traficanti matter.

2. The deponents refused to discuss communications among city employees concerning DiAdamo's handling of the Traficanti matter. *E.g.*, Bonet Depo. 55:4-21; 59:17-60:22; D'Agostino Depo. 22:5-9; 24:13-19; 45:6-21; 46:6-10; 47:19-24; 51:4-11. Duggan's statement concerned allegations made by city officials about DiAdamo. The nature of internal city communications concerning DiAdamo is crucial to ascertain the truth of Duggan's statement.

3. Information about the Traficanti matter. *E.g.*, DiAdamo Depo. 279:22-280:3; Bonet Depo. 36:14-22; 40:22-41:6; 75:17-76:14; 78:20-79:2; 80:24-81:22; 85:4-9; 95:14-96:1; 97:16-22; D'Agostino Depo. 89:18-22. DiAdamo has represented that he did not see the Traficanti case through to the end, and that as a result he could not have "thrown" the case. The

procedural history and developments in the Traficanti case are therefore material to the issue of whether such an accusation was true.

4. DiAdamo refused to disclose conversations he had with Kevin Sullivan, who was the then-current mayor's brother and a former mayor, but who had no official role with the City and was not represented by DiAdamo. *E.g.* DiAdamo Depo. 194:17-199:13. This is a rather remarkable refusal. DiAdamo refused to discuss his conversations with Kevin Sullivan about the Traficanti case because Sullivan was later sued by Traficanti's husband, Frank McCann. There was never an attorney-client relationship between Kevin Sullivan and DiAdamo and therefore no basis for DiAdamo's refusal to discuss that conversation. Moreover, the existence of that conversation could demonstrate that the privilege had already been waived.

5. The deponents declined to discuss information concerning DiAdamo's investigation of, handling of, and attempts to settle the Traficanti matter and events in the dispute itself. *E.g.*, DiAdamo Depo. 204:11-24; 205:12-13; 209:8-18; 211:3-11; 218:2-11; 221:2-15; 277:1-3; Bonet Depo. 50:14-52:3; 63:3-10. For the reasons delineated above, this information is relevant in ascertaining the truth of allegations concerning DiAdamo's handling of this case.

6. Communication concerning the reason for DiAdamo's termination by the City or dissatisfaction of DiAdamo's representation by city employees. *E.g.*, DiAdamo Depo. 236:9-15; 238:12-17; 239:11-240:16; Bonet Depo. 17:5-13; 18:4-11; 33:7-22; D'Agostino Depo. 26:10-15; 20:23-21:4; 21:10-14; 21:20-23; 22:18-21; 60:8-61:10. Duggan stated that DiAdamo "has been fired by the City of Lawrence because he's accused of throwing the case." The reasons for DiAdamo's termination by the City are material and relevant. MVR cannot address the truth of this allegation without access to this information.

7. Attorney D'Agoostino refused to discuss conversations about whether to file a

BBO complaint against DiAdamo. *E.g.*, D’Agostino Depo. 25:2-10; 31:11-19; 53:1-6. Duggan stated in his broadcast that “it’s going to be interesting to see if there is going to be a BBO complaint. My understanding is that it’s something that’s being bantered about and is very possible.” Whether such a topic was discussed is squarely at issue in determining the truth of Duggan’s statement.

MVR will seek to take other depositions, but does not want to expend resources and time to receive the same stonewalling answers. Specifically, MVR anticipates taking the deposition of former Mayor Michael Sullivan, as well as other city officials. However, it seeks the Court’s guidance on these issues first.

II. If DiAdamo cannot secure a waiver to allow the production of this discovery, his claim must be dismissed.

While it is generally accepted that a privilege, such as the attorney-client privilege, can curtail discovery in the proper circumstances, it also understood that in certain instances, especially when the communications protected by the privilege are put “at issue” by a litigant that the issue is waived and that the privilege may not be used as a shield and a sword to allow a litigant to gain a tactical advantage over another. This principle was best articulated by the Fifth Circuit in the case *Conkling v. Turner*, 883 F.2d 431,434 (5th Cir. 1989):

The attorney-client privilege “was intended as a shield, not a sword.” *Pitney–Bowes, Inc. v. Mestre*, 86 F.R.D. 444, 446 (S.D.Fla.1980). “[W]hen confidential communications are made a material issue in a judicial proceeding, fairness demands treating the defense as a waiver of the privilege.” *United States v. Mierzwicki*, 500 F.Supp. 1331, 1335 (D.Md.1980). The great weight of authority holds that the attorney-client privilege is waived when a litigant “place[s] information protected by it in issue through some affirmative act for his own benefit, and to allow the privilege against disclosure of such information would be manifestly unfair to the opposing party.” *Hearn v. Rhay*, 68 F.R.D. 574, 581 (E.D.Wash.1975).

The instant case is slightly complicated by the fact that the privilege holder – the City of Lawrence – is not a party to this matter and is not putting this confidential information at issue.

Rather, DiAdamo, an attorney who is constrained by his professional ethical obligations to maintain confidentiality,³ is the one who has affirmatively put the attorney-client information at issue to seek monetary compensation from a Superior Court jury. However, the common law is quite clear that an attorney who brings a defamation claim that puts at issue attorney-client protected information either needs to secure the consent of the client to disclose the information or else he is foreclosed from bringing the claim. *Eckhaus v. Alfa-Laval, Inc.*, 764 F. Supp. 34 (S.D.N.Y. 1991) (granting judgment for the defendant in a suit for defamation by its former in-house counsel on the grounds that there was a “substantial likelihood” that the former lawyer would use or disclose confidential information in the litigation).

In *Eckhaus*, the United States District Court for the Southern District of New York examined whether a former in-house counsel could disclose his former employer’s confidences while pursuing a defamation claim against the employer. *Eckhaus.*, 764 F. Supp. at 34-38. Eckhaus, the attorney, asserted that he was defamed by false statements contained in a performance review. *Id.* The performance review asserted that Eckhaus’ performance was deficient with respect to a number of litigation matters. *Id.* The employer moved for summary judgment, arguing that Eckhaus would have to violate the applicable Code of Professional Responsibility in order to maintain his claim and that attorney-client privilege has not been waived. *Id.* Eckhaus replied that he was entitled to disclose the information on the “self-defense

³ Massachusetts Rule of Professional Responsibility 1.6 concerning confidentiality, provides in relevant part: “(a) A lawyer shall not reveal confidential information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b). (b) A lawyer may reveal, and to the extent required by Rule 3.3, Rule 4.1(b), or Rule 8.3 must reveal, such information: . . . (2) to the extent the lawyer reasonably believes necessary to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer’s representation of the client.” (emphasis added).

exception” to the attorney-client privilege because the rules permit the disclosure of information when it is necessary “to defend the lawyer or his or her employees or associates against an accusation of wrongful conduct.” *Id.* The *Eckhaus* Court entered judgment for the employer. *Id.*

Essentially the *Eckhaus* Court found that even though the complaint stated a cause of action for defamation, the rule of professional responsibility regarding confidentiality trumped his right to bring such a claim as the rule “strikes the appropriate balance between the rights of an attorney to seek compensation for injuries suffered at the hand of a client and the right of the client not to be held hostage to an attorney’s threat to reveal confidential information.” *Id.* After examining the professional rules (which are similar to Massachusetts Rule 1.6) and the relevant case law, the Court found that Eckhaus could not maintain his claim because he was required to maintain the confidence of the information that formed the basis of his claim. *Id.* Specifically, the “self-defense exception” did not apply as statements in performance reviews did not amount to ‘wrongful conduct’ and also the claim was initiated by the Eckhaus and he was not defending against an accusation.

Applying *Eckhaus* to the present case and analyzing the matter in the context of the applicable Massachusetts Rules of Professional Responsibility, it is clear that DiAdamo either needs to obtain the consent of the City of Lawrence to maintain this action and disclose the highly relevant discovery or that this Court needs to dismiss his claim. As was the case in *Eckhaus*, the instant situation involves an affirmative claim by an attorney seeking monetary damages for defamation in which the attorney has put in issue his legal representation. This is not a case where DiAdamo is required to defend himself against criminal or civil charges that he engaged in “wrongdoing.” This is purely an attorney seeking compensation at the expense of his obligation to maintain client confidences. In such cases the law is clear that an attorney must

maintain client confidences unless the client authorizes disclosure. *Eckhaus*, 764 F. Supp. at 34-38; *see also*, e.g., Restatement (Third) of Law Governing Lawyers § 64, cmt. g (self-defense exception applies to defend against claims by non-clients who allege the lawyer engaged in “wrongdoing”). Thus, the “self-defense exception” simply does not apply and DiAdamo may not disclose the attorney-client information unless and until the City of Lawrence consents to such a waiver.

Any reliance by the plaintiff on *GTE Products Corp. v. Stewart*, 421 Mass. 22 (1995) to contradict *Eckhaus* is inappropriate. In *GTE Products*, an in-house lawyer sued his employer for wrongful termination. The Supreme Judicial Court upheld the employer’s victory on summary judgment and stated that an in-house lawyer can only sue for wrongful termination if the claim “depends on (1) explicit and unequivocal statutory or ethical norms (2) which embody policies of importance to the public at large in the circumstances of the particular case, and (3) *the claim can be proved without any violation of the attorney’s obligation to respect client confidences and secrets.*” *Id.* at 30 (emphasis added); *see also id.* at 32 (“[I]f the claim for wrongful discharge is one that might be brought by a nonattorney colleague . . . must be established that the claim can be proved without any violation of the attorney’s obligation to respect client confidences and secrets.”). The Supreme Judicial Court ultimately upheld the award of summary judgment to the defendant because the attorney could not even demonstrate a constructive discharge. *Id.* at 36.

The *GTE Products* principles apply with equal force here. An attorney, by virtue of his status as such, cannot bring litigation in which he needs to rely upon confidential information. This is what DiAdamo did here. Dismissal is entirely fair under the circumstances where DiAdamo has affirmatively put his attorney-client relationship at issue and is attempting to recover monetary damages from MVR and other defendants. DiAdamo should not be allowed to

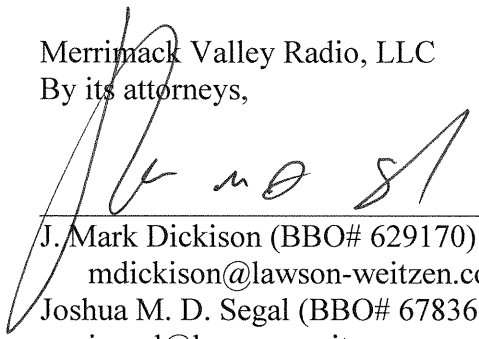
assert a claim putting at issue the truth of whether or not he was accused by the City of Lawrence of “throwing a case” and then attempt to use the attorney-client privilege as a shield to prevent the discovery and disclosure of such highly relevant information. Indeed, any trial of this matter under these conditions would be a farce as DiAdamo would essentially be constrained to vaguely testifying that the statements at issue were false, but he and other witnesses from the City of Lawrence would be prohibited from testifying in more detail because of the attorney-client privilege. Similarly, MVR and the other defendants would be unfairly constrained from gathering and presenting information supporting their defense of truth and would be hindered from fully cross-examining DiAdamo. The jury would at best hear only limited, garbled evidence and would be unable to pass accurately upon the central issues. Fairness requires that MVR and the other defendants be allowed to explore the “full panoply of information available” to defend against DiAdamo’s defamation claim and then to present all of the relevant evidence to the jury. *See Columbia Data Products v. Autonomy Corp. Ltd.*, No. 11-12077-NMG, 2012 U.S. Dist. LEXIS 175920, 2012 WL 6212898 (D. Mass. Dec. 12, 2012) (Dein, M.J.) (finding that plaintiff software company cannot use the accounting firm’s status as an independent auditor as a “sword” against the defendants, while relying on the attorney-client privilege and the work product doctrine as a “shield” to prevent disclosure of related materials). Either DiAdamo needs to secure the consent of the City of Lawrence to waive any attorney-client privilege or his claims have to be dismissed.

CONCLUSION

For the foregoing reasons, MVR respectfully requests that the Court order that the plaintiff William DiAdamo obtain the consent of his former client the City of Lawrence to waive its attorney-client privilege and allow DiAdamo to produce without restriction any deposition

testimony, interrogatory answers, and critical documents concerning DiAdamo's handling of the Traficanti case and communications with representatives of the City of Lawrence. The Court should further order that if the City of Lawrence refuses to waive its attorney-client privilege and DiAdamo cannot produce the testimony and requested information, then the case against MVR be dismissed. In short, if MVR is prohibited from properly defending itself, it should not have to defend itself at all.

Merrimack Valley Radio, LLC
By its attorneys,

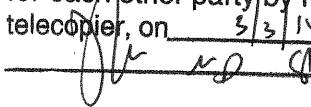


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Dated: 3/3/14

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party, by mail ☒ hand ☐ telecopier, on 3/3/14



COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Trial Court of the Commonwealth
The Superior Court
Docket No.: ESCV 2008-1931-D

William DiAdamo,
Plaintiff

versus

Thomas J. Duggan, Jr.,
Valley Patriot, Inc.,
Merrimack Valley Radio, LLC,
Michael Sweeney, William Manzi
and Thomas Schiavone,
Defendants

RULINGS AND ORDER :

The parties have now been heard regarding certain discovery issues in this long standing matter.

Additionally, there are a certain number of "loose ends" which the Court now intends to resolve in seeking to bring this matter to either a negotiated settlement or to trial. This, the following is therefore now ORDERED, viz:

1. The long pending prior motion before this Court regarding a waiver of attorney/client privilege is now denied, without prejudice in order to correct and complete the docket.
2. The defendants and each of them along with other involved third parties, as is applicable where they have had a prior attorney/client relationship with the plaintiff, are now each found not to have waived that privilege but, do claim the same at this time.

In any instance where such former client during the course of this litigation agrees to waive the attorney/client privilege, he/she shall do so in writing, addressed to the clerk's office of this Court with copies to all parties. To the extent that such former client thus waives the privilege, the plaintiff may thereupon disclose the same in discovery in this matter only.

The issue of attorney/client privilege between the plaintiff and any of his client(s), past or present, individual, municipal or corporate shall now be resolved by said plaintiff responding to all outstanding discovery, including the sitting for deposition and, in any instance where the plaintiff believes the privilege exists, he may lodge his objection and decline to answer.

Thereupon, after amassing all of the plaintiff's privilege objections and reducing the same to writing, the interrogating party may submit any such claim *it actually has reason to challenge* to

this Court for hearing and ruling, after notice given.

Thereupon, once said rulings have been entered, the plaintiff shall adhere to said rulings in supplementing his responses to discovery or in again being deposed.

3. In order to accommodate the conducting of reasonable and final discovery in this matter, the discovery deadline is now extended until the close of business on March 31, 2014.

4. On November 12, 2010 the docket reflects that the Appeals Court imposed attorneys' costs and fees against the defendant Thomas J. Duggan, Jr.. Said fees were imposed by the Appeals Court in the amount of \$7,954.00 and, that Court directed that collection of said fees be addressed by this Court. Since November 12, 2010, according to the docket, no action has been taken upon that order issued by the Appeals Court.

Accordingly, it is now ORDERED that those fees and costs imposed by the Appeals Court shall be paid over to the plaintiff in the amount of five hundred (\$500.00) dollars per month, beginning on February 1, 2014 and continuing on the first of each month until satisfied in full. Said defendant may, if he wishes pay the full amount at any time or seek to reach a compromise with the plaintiff, if the plaintiff so agrees to a lesser lump sum amount.

5. The parties are now ORDERED to participate in good faith, court sponsored mediation of this case prior to the setting of a firm trial date. Said mediation shall occur on or before April 30, 2014 and the parties shall contact first assistant clerk magistrate Judith Brennan (tel: 978-687-7463) **on or before the close of business on January 31, 2014** to agree to a date and time for said mediation which shall be conducted at this courthouse in Lawrence.

6. Unless sooner settled, there shall be a final pre trial conference held in this matter on **Thursday, May 8, 2014 at 2:00 p.m.** for purposes of the parties submitting a joint pre trial conference report in this matter and to set the trial date in this matter.

So Ordered:

Hon. Robert A. Cornetta,
Justice

January 15, 2014

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION No. 08-1931D

WILLIAM H. DIADAMO
Plaintiff

v.

THOMAS J. DUGGAN, JR.,
VALLEY PATRIOT, INC.,
MERRIMACK VALLEY RADIO, LLC,
MICHAEL SWEENEY,
WILLIAM MANZI, and
THOMAS SCHIAVONE
Defendants

**RESPONSE OF THE PLAINTIFF WILLIAM H. DIADAMO
TO MERRIMACK VALLEY RADIO LLC'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS.**

Plaintiff hereby objects to the "Instructions" to the extent that they impermissibly alter or expand the applicable Massachusetts Rules of Civil Procedure. Without waiving or limiting said objection, Plaintiff responds as follows:

Request 1: All documents and communications identified in response to the First Set of Interrogatories to Plaintiff William DiAdamo.

1. Objection: Plaintiff objects to this request to the extent that it seeks documents, as defined by the defendant, that are protected by the Attorney-client privilege, and to the extent that they are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. For example, without limiting the foregoing, documents relating to the plaintiff's representation of The City of Lawrence, including but not limited to those relating to the Andrea Traficanti Worker's Compensation case (hereinafter, the Traficanti case"), which is still pending before the Department of Industrial Accidents, are privileged, as are certain communications contained in documentation relating to DiAdamo's involvement in the *Lariviere v. City of Methuen* case (hereinafter, "the Lariviere case") as well as the numerous legal matters DiAdamo handled for the Greater Lawrence Sanitary District (hereinafter, the GLSD matters").

In addition, documents related to communication between plaintiff and his present counsel Carmine DiAdamo are likewise privileged.

Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any special damages, direct or documented loss of compensation. To the extent that plaintiff is seeking damages, they are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939) (special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

Moreover, production of this documentation is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will publish said information for the purpose of casting the plaintiff in a false light, and holding him up to scorn and ridicule in the community. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, the headline in the November 2008 Valley Patriot, "*Fired Attorney's Firm Member Made Millions on Taxpayers*" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. To help force a mediation, the defendant in February 2013 published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father on June 12, 2013 and implying illegal conduct.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

By way of further objecting, the plaintiff refers to and incorporates herein by reference William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served herewith.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 2. All documents, communications, notes, transcripts, recordings, or tapes of and concerning statements made by the defendant, or any of defendant's agents, or published by the defendant, that the plaintiff alleges constitutes a defamation of the plaintiff or a false and malicious statement of and concerning the plaintiff.

2. Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 3. All documents, communications, notes, transcripts, recordings, or tapes of and concerning statements made by the defendant, or any of defendant's agents, or published by the defendant, of and concerning the plaintiff.

3. Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 4. All documents and communications providing the basis for the allegations contained in the Amended Complaint.

4. Objection: Plaintiff objects to this request to the extent that it seeks documents, as defined by the defendant, that are protected by the Attorney-client privilege, and to the extent that they are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. For example, without limiting the foregoing, documents relating to the plaintiff's representation in the Traficanti case are privileged, as are certain communications relating to DiAdamo's involvement in the the Lariviere case and GLSD matters. In addition, documents related to communication between plaintiff and his present counsel Carmine

DiAdamo are likewise privileged.

Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any special damages, direct or documented loss of compensation. To the extent that plaintiff is seeking damages, they are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

Moreover, production of this documentation is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will publish said information for the purpose of casting the plaintiff in a false light, and holding him up to scorn and ridicule in the community. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, the headline in the November 2008 Valley Patriot, "*Fired Attorney's Firm Member Made Millions on Taxpayers*" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. To help force a mediation, the defendant in February 2013 published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father on June 12, 2013 and implying illegal conduct.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

By way of further objecting, the plaintiff refers to and incorporates herein by reference William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served herewith.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 5. All documents and communications providing the basis for the allegations contained in Paragraph 11 of the Amended Complaint.

5. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4, Plaintiff further objects to the request to the extent that the burden is on the defendants to prove otherwise, and the absence of the information has no probative value as to its truth.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 6. All documents and communications providing the basis for the allegations contained in Request Paragraph 24 of the Amended Complaint.

6. Objection: Plaintiff objects to this request to the extent that it seeks documents, as defined by the defendant, that are protected by the Attorney-client privilege, and to the extent that they are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. For example, without limiting the foregoing, documents relating to the plaintiff's representation in the Traficanti case are privileged, as are certain communications relating to DiAdamo's involvement in the the Lariviere case and GLSD matters. In addition, documents related to communication between plaintiff and his present counsel Carmine DiAdamo are likewise privileged.

Objection: Plaintiff objects to this request to the extent that it seeks documents, as defined

by the defendant, that are protected by the Attorney-client privilege, and to the extent that they are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. For example, without limiting the foregoing, documents relating to the plaintiff's representation in the Traficanti case are privileged, as are certain communications relating to DiAdamo's involvement in the the Lariviere case and GLSD matters. In addition, documents related to communication between plaintiff and his present counsel Carmine DiAdamo are likewise privileged.

Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any special damages, direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

Moreover, production of this documentation is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will publish said information for the purpose of casting the plaintiff in a false light, and holding him up to scorn and ridicule in the community. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, the headline in the November 2008 Valley Patriot, "*Fired Attorney's Firm Member Made Millions on Taxpayers*" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. To help force a mediation, the defendant in February 2013

published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father on June 12, 2013 and implying illegal conduct.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

By way of further objecting, the plaintiff refers to and incorporates herein by reference William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served herewith.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 7. All documents and communications providing the basis for the allegations contained in Paragraph 28 of the Amended Complaint.

7. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 8. All documents and communications providing the basis for the allegations contained in Paragraph 29 of the Amended Complaint.

8. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 9. All documents and communications providing the basis for the allegations contained in Paragraph 31 of the Amended Complaint.

9. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 10. All documents and communications providing the basis for the allegations contained in Paragraph 32 of the Amended Complaint.

10. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 11 . All documents and communications providing the basis for the allegations contained in Paragraph 33 of the Amended Complaint.

11. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 12. All documents and communications providing the basis for the allegations contained in Paragraph 34 of the Amended Complaint.

12. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 13. All documents and communications providing the basis for the allegations contained in Paragraph 43 of the Amended Complaint.

13. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 14. All documents and communications providing the basis for the allegations contained in Paragraph 44 of the Amended Complaint.

14. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 15. All documents and communications providing the basis for the allegations contained in Paragraph 45 of the Amended Complaint.

15. Objection: Plaintiff objects to this request on the grounds that documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any special damages, direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

Moreover, production of this documentation is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will publish said information for the purpose of casting the plaintiff in a false light, and holding him up to scorn and ridicule in the community. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, the headline in the November 2008 Valley Patriot, "*Fired Attorney's Firm Member Made Millions on Taxpayers*" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the

plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. To help force a mediation, the defendant in February 2013 published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father on June 12, 2013 and implying illegal conduct.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

By way of further objecting, the plaintiff refers to and incorporates herein by reference William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served herewith.

Request 16. All documents reflecting your loss of money, lost income, lost compensation, and other damages you incurred as result of the defendant's acts or omissions as alleged in the Amended Complaint.

16. Objection: Plaintiff objects to this request on the grounds that documents related to the plaintiff's financial condition are neither relevant nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any special damages, direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

Moreover, production of this documentation is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will publish said information for the purpose of casting the plaintiff in a false light, and holding him up to scorn and ridicule in the community. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, the headline in the November 2008 Valley Patriot, "*Fired Attorney's Firm Member Made Millions on Taxpayers*" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. To help force a mediation, the defendant in February 2013 published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father on June 12, 2013 and implying illegal conduct.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

By way of further objecting, the plaintiff refers to and incorporates herein by reference

William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served herewith.

Request 17. All federal tax returns, including schedules and other attachments, filed for the years 2005 through the present.

17. Objection: Plaintiff objects to this request on the grounds that documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any special damages, direct or documented loss of compensation. To the extent that plaintiff is seeking damages, they are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939) (special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

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published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father on June 12, 2013 and implying illegal conduct.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

Said documents are also protected and privileged by state and Federal law.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

By way of further objecting, the plaintiff refers to and incorporates herein by reference William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served herewith.

Request 18. All state tax returns, including schedules and other attachments, filed for the years 2005 through the present.

18. Objection: Plaintiff objects to this request on the grounds that documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any special damages, direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.")

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(1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

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Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

Said documents are also protected and privileged by state and Federal law.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

By way of further objecting, the plaintiff refers to and incorporates herein by reference William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served herewith.

Request 19. All local tax returns. including schedules and other attachments, filed for the years 2005 through the present.

19. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4. Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.") As further objection, plaintiff refers to and incorporates herein by reference his Opposition to the Defendant's Motion to Compel served herewith.

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

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published another actionable, damaging article in the Valley Patriot, entitled "Lantigua Conceals DiAdamo Money" attacking the plaintiff and his father on June 12, 2013. A copy is attached to the Opposition filed herewith, and that article and the Opposition is incorporated herein by reference.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

Said documents are also protected and privileged by state and Federal law.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

Request 20. All documents which refer, relate or pertain to your financial condition for the past 10 years including, but not limited to, profit and loss statements, earnings reports, balance sheets, and financial ledgers.

20. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4. Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.") As further objection, plaintiff refers to and incorporates herein by reference his Opposition to the Defendant's Motion to Compel served herewith.

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. "A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved)." *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for "mental feelings . . . which [are] the natural and necessary result of the [defamation]").

Moreover, production of this documentation is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will publish said information for the purpose of casting the plaintiff in a false light, and holding him up to scorn and ridicule in the community. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, The headline in the November 2008 Valley Patriot, "Fired Attorney's Firm Member Made Millions on Taxpayers" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. This was proven true; the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and published another actionable, damaging article in the Valley Patriot, entitled "Lantigua Conceals DiAdamo Money" attacking the plaintiff and his father on June 12, 2013. A copy is attached to the Opposition filed herewith, and that article and the Opposition is incorporated herein by reference.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

Said documents are also protected and privileged by state and Federal law.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

Request 21. All documents which refer, relate or pertain to your efforts to obtain financing for yourself or any business entity in which you have an interest within the past 10 years.

21. Objection: Plaintiffs objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4. Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. Albe v. Sampson, 44 Mass.

App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements “impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.”) As further objection, plaintiff refers to and incorporates herein by reference his Opposition to the Defendant’s Motion to Compel served herewith.

Since there is slander per se, it is not necessary to catalog the extensive and obvious damages, including (but not limited to) emotional distress and damage to reputation. “A plaintiff in a successful defamation case is entitled . . . to fair compensation for actual damages, including emotional distress and harm to reputation (and any special damages that have been pleaded and proved).” *Ayash v. Dana-Farber Cancer Inst.*, 443 Mass. 367, 404-405, cert. denied sub nom. *Globe Newspaper Co. v. Ayash*, 126 S.Ct. 397 (2005). See *Shafir v. Steele*, 431 Mass. 365, 373 (2000), quoting *Markham v. Russell*, 12 Allen 573, 575 (1866); *Mahoney v. Belford*, 132 Mass. 393, 394 (1882) (recovery for “mental feelings . . . which [are] the natural and necessary result of the [defamation]”).

Moreover, production of this documentation is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will publish said information for the purpose of casting the plaintiff in a false light, and holding him up to scorn and ridicule in the community. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, The headline in the November 2008 Valley Patriot, “Fired Attorney’s Firm Member Made Millions on Taxpayers” appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff’s father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff’s legal bills to the City of Lawrence, as well as the rental documents for the plaintiff’s father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. This was proven true; the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants’ demands, Duggan lashed out and published another actionable, damaging article in the Valley Patriot, entitled “Lantigua Conceals DiAdamo Money” attacking the plaintiff and his father on June 12, 2013. A copy is attached to the Opposition filed herewith, and that article and the Opposition is incorporated herein by reference.

Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

Said documents are also protected and privileged by state and Federal law.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

Request 22. All documents which have been filed in the past 10 years with any federal, state or municipal entity.

22. Objection: Plaintiff objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4, and to the extent that it is over broad, unduly burdensome, vague, unspecific, and to the extent that it seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.") As further objection, plaintiff refers to and incorporates herein by reference his Opposition to the Defendant's Motion to Compel served herewith.

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further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light. This was proven true; the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and published another actionable, damaging article in the Valley Patriot, entitled "Lantigua Conceals DiAdamo Money" attacking the plaintiff and his father on June 12, 2013. A copy is attached to the Opposition filed herewith, and that article and the Opposition is incorporated herein by reference.

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Request 23. All documents which refer, relate or pertain to all communications between you and any other person concerning the statements that are the subject matter of your claim.

23. Objection: Plaintiff objects to this Request to the extent that its by definition duplicative and merely a subset of subset of Request 4, and to the extent that it is over broad, unduly burdensome, vague, unspecific, and to the extent that it seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Further, documents related to the plaintiff's financial condition are neither relevant, nor reasonably calculated to lead to the discovery of invisible evidence, as plaintiff is making no claim for any direct or documented loss of compensation. To the extent that plaintiff is seeking damages, the are for slander per se and do not require proof of economic damage because they "prejudice[d] him in his office, profession or business, or may probably [have] tend[ed] to do so. *Albe v. Sampson*, 44 Mass. App. Ct. 311, 312 (1998), quoting *Lyon v. Lyons*, 303 Mass. 116, 118-9 (1939)(special damages not required where the statements "impute to the plaintiff any corruption, dishonesty, misconduct in his office, profession or business, [or] the lack of some quality demanded of a person in the lines of endeavor pursued by him.") As further objection, plaintiff refers to and incorporates herein by reference his Opposition to the Defendant's Motion to Compel served herewith.

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Moreover, The defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

Said documents are also protected and privileged by state and Federal law.

It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately scare the plaintiff into capitulation. Since plaintiff is not claiming documented special damages, and said documents will be used to cause impermissible harm, the documents will not be produced.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 24. All documents relating to the worker's compensation matter of Andrea Traficanti.

24. Objection: Plaintiff objects to this request to the extent that it seeks documents, as defined by the defendant, that are protected by the Attorney-client privilege. For example, without limiting the foregoing, documents relating to the plaintiff's representation of The City of Lawrence, including but not limited to those relating to the Andrea Traficanti Worker's Compensation case, which is still pending before the Department of Industrial Accidents, are privileged.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 25. All document and communication relating to plaintiff's involvement worker's compensation matter of Andrea Traficanti.

25. Objection: Plaintiff objects to this request to the extent that it seeks documents, as defined by the defendant, that are protected by the Attorney-client privilege. For example, without limiting the foregoing, documents relating to the plaintiff's representation of The City of Lawrence, including but not limited to those relating to the Andrea Traficanti Worker's Compensation case, which is still pending before the Department of Industrial Accidents, are privileged.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 26. All documents and communications relating to plaintiff's relationship with Frank McCann, one time Lawrence Director of the Department of Public Works.

26. Objection: Plaintiff objects to this request to the extent that it is overbroad and unduly burdensome, and further to the extent that the documents are protected by the attorney-client privilege. Specifically, plaintiff's relationship with Mr. McCann has the department of public works revolved around plaintiff's status as the city's workers compensation attorney, and many of the cases involved members of the department of public works. As such, communication with Mr. McCann his privilege. The remainder of plaintiff's relationship with Mr. McCann revolved around the plaintiff's status as special counsel to the Greater Lawrence Sanitary District during dependency of several legal matters, and as such said documentation is likewise privileged.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice.

Request 27. All documents and communications relating to plaintiff's employment by the City of Lawrence with respect to worker's compensation cases, including the terms of employment, engagement letters, and compensation received.

27. Objection: Plaintiff objects to this request extensive material side are protected by the Attorney-client privilege and work product doctrine, and further to the extent that said information would be protected by HIPPA laws.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice. By way of further answering, there are estimated to be thousands of pages of material responsive to this request.

Request 28. All documents and communications relating to plaintiff's relationship as special counsel to the Greater Lawrence Sanitary District, including the terms of employment, engagement letters, and compensation received.

28. Objection: Plaintiff objects to this request to the extent this material side are protected by the Attorney-client privilege and work product doctrine.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice. By way of further answering, there are estimated to be thousands of pages of material responsive to this request.

Request 29. All documents and communications relating to plaintiff's involvement in the matter of Lariviere v. Methuen, USDC C.A.No.05-11579-09-1.

29. Objection: Plaintiff objects to this request extensive material side are protected by the attorney client privilege and work product doctrine.

Without waiving or limiting said objection, documents responsive to this request are available for inspection at the plaintiff's offices upon reasonable notice. By way of further answering, there are estimated to be thousands of pages of material responsive to this request.

Request 30. All documents and communications concerning plaintiff's standing as an attorney, including any complaints or matters before the Board of Bar Overseers.

30. Objection: plaintiff objects to this request to the extent that it is vague and overbroad, and neither relevant nor calculated to lead to the discovery of admissible evidence. Without waiving a limiting said objections, plaintiff is an attorney in good standing in the

Commonwealth of Massachusetts, the only state in which he is admitted, and has never been subjected to disciplinary action anywhere.

AS TO OBJECTIONS

And

Plaintiff,

By his Attorney



William H. DiAdamo

BBO#558883

William H. DiAdamo LLC

40 Appleton Way

Lawrence, MA 01840

978-229-2345

william@diadamo.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served via facsimile and email upon J. Mark Dickinson and remaining counsel of record by first class mail on June 24, 2013:



William H. DiAdamo

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION No. 08-1931D

WILLIAM H. DIADAMO

Plaintiff

v.

THOMAS J. DUGGAN, JR.
VALLEY PATRIOT, INC.,
MERRIMACK VALLEY RADIO, LLC,
MICHAEL SWEENEY,
WILLIAM MANZI, and
THOMAS SCHIAVONE

Defendants

**ANSWERS OF THE PLAINTIFF WILLIAM H. DIADAMO
TO THE INTERROGATORIES OF THE DEFENDANT
MERRIMACK VALLEY RADIO LLC**

1. Identify all persons who provided information used in preparing the answers to these interrogatories.

ANSWER: Objection: Plaintiff objects to this interrogatory the grounds that it is vague and confusing, and to the extent that it violates the attorney-client privilege and work product doctrine. Without waiving or limiting said objection, Plaintiff assumes that the Interrogatory is seeking information as to the identify of any persons who assisted directly in the drafting of the Answers, and states none.

2. Identify all persons who are employees, agents or in a contractual or business relationship with you who have knowledge of facts relevant to the claims presented by the plaintiff in this case.

ANSWER: Objection: Plaintiff objects to this interrogatory on the grounds that it is vague, overbroad and confusing. Plaintiff further objects to the extent that the interrogatory seeks information, as defined by the defendant, that is protected by the Attorney-client privilege, and to the extent that it is are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. For example, without limiting the foregoing, information related to the identify of the plaintiff's clients is irrelevant, and moreover, this information is being sought merely for the purpose of causing additional, irreparable harm to the plaintiff. More specifically, if said information is published, defendants will do so for the purpose of damaging his reputation, casting the plaintiff in a false light, holding him up to scorn and ridicule in the community, and interfering with his business relationships. This is not idle speculation; it has already occurred on several occasions. First, after the plaintiff brought this lawsuit in October 2008, the headline in the November 2008 Valley Patriot, "*Fired Attorney's Firm Member Made Millions on Taxpayers*" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago). Significantly, the defendant did not seek that information for any other individual or entity for the purposes of providing context or fairness. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light and try to damage his reputation. To help force a mediation, the defendant in February 2013 published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices,*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendants' demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot on June 12, 2013, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father and implying illegal conduct. More recently, on or about July 9, 2013, Duggan published yet another false and misleading and defamatory story, "*\$4M Rent For Building Worth \$801K*", which again intentionally misrepresented the facts to cast plaintiff in a false light, harm him and his family, and impugn him, his family and his reputation. It is obvious that, coming on the heels of the Complaint and refusal of the plaintiff to acquiesce, these gratuitous, excessive, unjustifiable stories were written solely to inappropriately threaten the plaintiff into capitulation.

Moreover, the defendant Duggan has represented that he has no assets, and therefore is judgment proof and can and will publish whatever he wants, leaving plaintiff with no remedy or ability to cure the damage defendant is determined to cause.

By way of further objecting, the plaintiff refers to and incorporates herein by reference William H. DiAdamo's Opposition to the Merrimack Valley Radio LLC's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision (and Request for a Hearing), served previously.

Without waiving or limiting said objection, Plaintiff employed Simone Marchand as his secretary from prior to August 2008 until present, and has been represented by his father Carmine DiAdamo. Plaintiff declines to identify his client and business contacts,

3. Identify all documents containing information relevant to the claims presented by the plaintiff in this case.

ANSWER: Objection: Plaintiff objects to this Interrogatory to the extent that it is overbroad and unduly burdensome, and to the extent that it violates the Attorney-client privilege and work product doctrine.

Without waiving or limiting said objection, see Plaintiff William H. DiAdamo's Response to the Defendant Merrimack Valley Radio LLC's First Request for Production of Documents, and Plaintiff William H. DiAdamo's Opposition to Merrimack Valley Radio's Motion to Compel, and Cross Motion for a Protective Order and Schedule Revision, the totality of which, including the various objections, and all prior pleadings, are incorporated herein by reference.

4. List every statement in every broadcast or publication which is the subject matter of your claim which you claim is a false or malicious or defamatory statement.

ANSWER: In addition to the initial defamatory statements on August 23, 2008, set forth in the Plaintiffs' Complaint and Amended Complaint, incorporated herein by reference, every mention of the Plaintiff and his family by the defendant Duggan in the Valley Patriot, on the Paying Attention Radio Program, on his Facebook Page, on Twitter, as well as other media outlets, has been defamatory under Massachusetts law, as the statements are intentionally misleading, partial truths (at best) intended to cause further harm. All statements made by Duggan are available, pursuant to Mass. R. Civ. P. 33(c) in Plaintiff's Response the Defendants Request for Production of Documents, By way of further answering, all issues of the Valley Patriot newspaper from August 2008 to date, as well as recordings of nearly all the Paying Attention radio programs, Duggan's twitter feed and Facebook posting are all available online.

Duggan claims that other defendants in this case, Michael Sweeney, William Manzi and Thomas Schiavone, are sources for his statements, as set forth in his deposition transcript. Upon information and belief, each of those defendants denies making any defamatory statements. Accordingly, plaintiff reserves the right to supplement this Answer as discovery is ongoing.

By way of further Answering, see the subsequent Answers, and prior pleadings, incorporated herein by reference.

5. As to each statement listed in answer to the preceding interrogatory state:
- a. every respect in which it is false or malicious or defamatory;
 - b. identify every person known to you to have knowledge of facts bearing upon its falsity;
 - c. every respect in which the statement defames you,
 - d. each and every item of damage and loss which the statement caused you;
 - e. identify every person known to you to have thereby been caused to hold you up to hatred, contempt, ridicule or scorn;
 - f. identify every fact upon which you rely in alleging that the defendants knew or could, with the exercise of reasonable care, have ascertained that the statement is untrue and defamatory.

ANSWER: a-f. The objects to this interrogatory to the extent that it violates the attorney-client privilege and work product doctrine, and is overbroad and unduly burdensome. Without waiving or limiting said objection, plaintiff states as follows:

As to the initial statements by Duggan, the following are false, defamatory and malicious:

I did not throw or lose the Traficanti case, and aside from Duggan, have not been accused of throwing the case to my knowledge.

I am not "best friends" with McCann. I have no social relationship with McCann whatsoever, and McCann has never been the source of any money or referrals to me or his office. The statement was made, apparently, to justify why plaintiff would "throw" a case and lose at least one substantial client, and jeopardize his practice, for people with whom, in reality, he is merely acquainted.

I did not and do not make \$70,000 to \$75,000 per year representing Lawrence in worker's compensation cases. I worked pursuant to a contract in which I made a flat fee of \$48,000 per year. This is easily verifiable, but was not.

I did not and do not make \$100,000 a year as special counsel to the GLSD to attend meetings, and certainly not to show up to one meeting every two months. This is equally easily to verify, and also was not.

I did not represent Methuen in Lariviere v. Methuen, et al., Massachusetts Federal District Court Docket No. 05-11579EFH. In fact, I represented Lariviere against Methuen, a fact that was later corrected on the Valley Patriot website.

Upon information and belief, no BBO complaint has been filed, and any such filing would be frivolous, without merit and would be met with a lawsuit similar to the instant case.

All of the stories which mention me or my family since August 2008 are defamatory and

actionable, and have been published with the malicious intent to harm me and my family. First, after the plaintiff brought this lawsuit in October 2008, the headline in the November 2008 Valley Patriot, "*Fired Attorney's Firm Member Made Millions on Taxpayers*" appeared above a story that was partially about the Traficanti case, and partially and unrelatedly about rent paid to the plaintiff's father (and lawyer) by the City over 20 plus years. The second story was to make further accusations that plaintiff acted unethically in leaking a story to the Valley Patriot in another case. Plaintiff denies this totally, and the timing reveals it as a transparent ploy. More recently, the Defendant Duggan has sought the plaintiff's legal bills to the City of Lawrence, as well as the rental documents for the plaintiff's father (which are the same as published 5 years ago), despite the fact that Duggan is aware that plaintiff's father is the trustee of the realty trust which owns the building, and not the owner personally. Significantly, the defendant did not seek that information regarding rents paid by any other public entity to any other individual or entity for the purposes of providing context or fairness; the information was published so as to be intentionally misleading, because Duggan knows that the rents charged are legal, fair and reasonable. The only purpose for requesting said information was again to improperly threaten plaintiff with publication to cast plaintiff in a false light.

Duggan also published additional misleading statements in the November 2008 Valley Patriot that were clearly intended to cause harm to the plaintiff's name and reputation. Duggan has claimed that I was a source of a news story, published by him, regarding Jennifer Pedallaro. That is untrue. Duggan claims that it was a conflict of interest for me to represent the City in the Traficanti workers compensation matter because I previously represented the GLSD, and that is false, misleading and defamatory. I was not the attorney of record for the City in the Summer of 2008, as I was terminated on June 2, 2008. I was no longer performing any services for the GLSD in 2008, and have not been hired by them since Duggan's story in August 2008. No conflict of interest documents were required. The fact that my father, Carmine DiAdamo is the trustee of the 237 Essex Street Realty Trust, which leases, and has leased property to the school department for decades, under a valid, legal and more than fair lease, was published along side my name as punishment for suing Duggan, and for the purpose of harming the DiAdamo reputation, and to interfere with existing and future contractual and business relationships. Duggan continues to refer to "DiAdamo and DiAdamo" with respect to both legal work and the lease, and such an entity has never existed. Duggan, has, for example, asserted that "The DiAdamo law firm also serves as landlord to the City of Lawrence School Department Administration Building" which is also knowingly incorrect, and intended to cause harm.

Later, to help force a mediation, the defendant in February 2013 published another story entitled, "*That Illegal DiAdamo Lease at the School Department Central Offices,*"; after the parties engaged in mediation on June 10, 2013, and when plaintiff refused defendant's demands, Duggan lashed out and immediately tweeted a reference to the February 2013 story, and then two days later published another actionable, damaging article in the Valley Patriot, entitled "*Lantigua Conceals DiAdamo Money*" attacking the plaintiff and his father on June 12, 2013 and implying illegal conduct. More recently, on or about July 9, 2013, Duggan published yet another false and misleading story, "*\$4M Rent For Building Worth \$801K*", which again intentionally misrepresented

the facts to cast plaintiff in a false light, harm him and his family, and impugn him, his family and his reputation.

Duggan also falsely and maliciously published that former City Attorney Richard D'Agostino, in a lawsuit, is "claiming that the law was broken when Mayor Lantigua, Attorney William D'Adamo, and City Attorney Charles Boddy illegally pressured him into signing an agreement" That is untrue, false, misleading and defamatory.

Duggan subsequently published a story in the Valley Patriot, purportedly written by Mark Gray, that the School Department lease is "illegal." That is also untrue, false, misleading and defamatory - the lease is completely legal and valid. Again, this is another story that was published with the intent to harm the DiAdamo name and reputation, interfere with the law practice, and the building lease. Duggan knew or should have known it as false and defamatory, and is liable for publishing it for that reason, as well as for the fact that the story was published with ill intent.

All of these stories have been referenced on multiple occasions on the Paying Attention radio show on WCAP, and are frequently published and republished on Duggan's Valley Patriot website, and the related Facebook page and Twitter accounts.

Duggan claims that other defendants in this case, Michael Sweeney, William Manzi and Thomas Schiavone, are sources for his statements, as set forth in his deposition transcript. Upon information and belief, each of those defendants denies making any defamatory statements.

By way of further Answering, see documents produced in response to the Defendant's Request for Production of Documents, as well as the prior pleadings filed in this case, including but not limited to the Affidavit of William H. DiAdamo.

Plaintiff reserves the right to supplement this Answer as discovery is ongoing.

6. Identify and describe all statements ever made by the defendant Merrimack Valley Radio, LLC or any of defendant's agents, or published by the defendant, which in any way concerned the plaintiff, and for each statement, state:
 - a. the content of the statement;
 - b. the name of the person making the statement;
 - c. the person's relations, if any to defendant, and;
 - d. the date of the publication.

ANSWER: See preceding Answers, hereby incorporated by reference. Upon belief, Duggan was an agent of the radio station in 2008, his statements on the Paying Attention radio program in August 2008, and subsequently, were made on the Merrimack Valley Radio station.

Further, Upon information and belief, there was no announcement by the station at that time, as there is now, that it denies any responsibility for the statements made by others. (Plaintiff contests that the announcement now made does not protect the station from the statements made by the hosts of programs that appear on said station.) Upon information and belief, Merrimack knew or should have known that Duggan made up defamatory stories and published them, and took no action, either before or after August 2008, to stop Duggan from publishing. In addition, Duggan has continued to refer to the stories and statements on his Paying Attention radio program which airs on Merrimack Valley Radio's WCAP.

By way of further Answering, see prior pleadings and Plaintiff's Response the Defendants Request for Production of Documents. Plaintiff reserves the right to supplement this Answer as discovery is ongoing.

7. Identify and describe the complete context and order in which all of the statements in any way concerning the plaintiff were made by the defendant, Merrimack Valley Radio, LLC or any of defendant's agents, and for each statement, state:
 - a. the content of the statement;
 - b. the name of the person making the statement;
 - c. the persons relations, if any to defendant; and;
 - d. the date of the publication.

ANSWER: See preceding Answers, hereby incorporated by reference. In addition, see prior pleadings and the Plaintiff's Response to the Defendant's Request for Production of Documents, and more specifically, but not limited to the recording of the Paying Attention Radio program produced therein.

8. Have you set forth all of the false or malicious or defamatory statements claimed to have been made by defendant, of or concerning you, in your Amended Complaint filed in this action?

ANSWER: Not all the actionable statements are contained in the Amended Complaint; many have been made since that time, and are contained in these Answers, prior pleadings, Plaintiff's Response to the Defendants' Request for Production of Documents, referenced previously and again incorporated herein by reference.

9. If not, identify and describe:
 - a. the words you claim were defamatory;
 - b. the date and place where the words were spoken or published; and

- c. the name and address of each person to whom such words were uttered or published.

ANSWER: See preceding Answers, prior pleadings, and Plaintiff's Response to the Defendants' Request for Production of Documents, referenced previously and again incorporated herein by reference.

10. Do you or any one you know, including any of your attorneys, agents, persons acting on your behalf, or any third parties possess a transcript, recording, notes or any documentation in any form whatever of any statements claimed to have been printed or otherwise published by defendant of or concerning you?

ANSWER: Objection: Plaintiff objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

Without waiving or limiting said objection, Yes.

11. If so, please identify the person or entity who possesses such statements, the form or medium in which the statements exist, and the location of the same.

ANSWER: Objection: Plaintiff objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

Without waiving or limiting said objection, the plaintiff has the printed words and recordings of said statements in his possession, custody or control, and upon information and belief, Duggan also has recordings of said statements. DiAdamo also has, and has provided, transcripts of the August 23 and 30, 2008 statements. The remaining statements are contained in the recordings of the Paying Attention Radio program, the Valley Patriot newspapers, and Duggan's Facebook and Twitter accounts, copies of which are contained in the Plaintiff's Response to the Defendant's Request for Production of Documents. All of these are or have been in the possession of untold numbers of people, most of whom cannot be identified. They have, by definition, been disseminated all over the world.

By way of further Answering, see prior pleadings and Plaintiff's Response the Defendants Request for Production of Documents.

12. Please identify all of the persons known to you who witnessed or participated in the defendants' alleged statements concerning you.

ANSWER: Objection. The plaintiff objects to this interrogatory in the grounds that it is vague and confusing, overboard and unduly burdensome, and to the extent that it violates the

attorney-client privilege and work product doctrine.

Without waiving or limiting said objection, Plaintiff states that upon information and belief, Dick Howe and Paul Murano were present in the studio on August 23, 2008 when Duggan made his initial statements. Plaintiff does not know, and cannot know, who has heard Duggan's broadcasts or read the Valley Patriot newspaper since that time. In his deposition, Duggan testified that the other defendants were his sources, as well as Paula Porten. Plaintiff is aware of numerous individuals who are aware of Duggan's defamatory statements.

By way of further Answering, see prior pleadings and Plaintiff's Response the Defendants Request for Production of Documents.

13. State the basis of your allegation in paragraph 11 of the Amended Complaint that Plaintiff is not a 'public person' as defined under defamation law and cite the specific law to which you refer.

ANSWER: Objection. Plaintiff objects to this Interrogatory on the grounds that it calls for conclusions and interpretations of law, and an impermissible switching of the burden of proof, and to the extent that it violates the attorney-client privilege and work product doctrine.

Without waiving or limiting said objection, plaintiff states that he is not and never has been a politician, high ranking governmental figure, or a government employee. Plaintiff is not a movie star, elite professional athlete, or head of a major corporation, or in a position of persuasive power and influence. Plaintiff has not thrust himself to the forefront of particular controversies in order to influence the resolution of the issues involved, or participated in any public debate of issues. Plaintiff has not taken advantage of the media to advocate for his cause, and in fact in all instances has shunned publicity. Plaintiff has never advertised, and never actively sought out any public recognition, and has never sought nor gained general fame or notoriety in the community and pervasive involvement in ordering the affairs of society. In short, plaintiff has done nothing to avail himself of the public spotlight, and in fact has done everything possible to remain a private person.

By way of further Answering, see see prior pleadings and Plaintiff's Response the Defendants Request for Production of Documents.

14. State the basis of your allegations in paragraph 29 of the Amended Complaint that Duggan failed to comply with "any journalistic ethics or integrity" and identify any standard which you believe Duggan failed to comply with.

ANSWER: Objection: Plaintiff objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

Without waiving or limiting said objection, first, Duggan not only failed to act with a reasonable level of care in publishing the statements, he acted with actual malice. Duggan did not take reasonable and necessary steps to even attempt to ascertain whether the statements were true (and they are not), and neither he nor apparently anyone else either took any steps to research, edit or fact check. Moreover, Duggan has failed to retract the statements, despite having on actual knowledge that they are not true. He did no research and did not communicate with the plaintiff prior to the initial publication. Since communicating with plaintiff, and being told that the statements are false, Duggan has other taken no steps to further confirm their truth or falsity, and in fact has instead launched an attack by intentionally and recklessly publishing other, further false statements to try to intimidate plaintiff or improperly threaten him into capitulation. Duggan did not verify the trustworthiness of his sources, or attempt to verify the statements or solicit opposing views. In general, he utterly failed to comply with any good journalistic practices.

Duggan has, among other things, failed to test the accuracy of his sources or obtain multiple sources. He has deliberately distorted facts. He never provided plaintiff with a fair opportunity to respond. He failed to identify his sources until legally compelled to do so. He never questioned his sources' motives before promising anonymity. He never made certain that his statements did not misrepresent, and in fact intentionally and knowingly highlighted certain facts and took others out of context to distort and skew the truth. Duggan explicitly does not distinguish between advocacy and news reporting, and intentionally confuses the difference between opinion and fact. Upon information and belief, he protects his advertisers, and punishes those with whom he has personal conflict. Rather than minimize harm, he maximizes it. To use the colloquialism, he wraps himself in the flag and uses his alleged patriotism attack anyone disagrees with him. He protects and panders to those who support him, and condemns people who dare disagree. He has failed to either admit his mistakes, or correct them. He uses his position as a self-proclaimed journalist for his own personal gain. He is neither neutral nor impartial, and does not act fairly or openly. His concern appears to be this he is first with a story rather than whether he is correct.

Duggan has violated nearly every published standard of journalistic ethics or integrity in some manner or other, including but not limited to those published by the New York Times, Society of Professional Journalists and others. More importantly, he has violated the law of defamation.

By way of further Answering, see prior pleadings and Plaintiff's Response the Defendants Request for Production of Documents.

Plaintiff specifically reserves the right to supplement this Answer.

15. The basis of your allegations that the statements in paragraph 31 the Amended Complaint that “the statements were made recklessly, willfully and maliciously, without any attempt to ascertain the truthfulness”.

ANSWER: Objection: Plaintiff objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

Without waiving or limiting said objection, see preceding Answers, hereby incorporated by reference, including but not limited to Nos. 2 and 5 in particular. By way of further answering, Duggan himself admitted in his August 30 broadcast that the statements were made with “ill-intent”:

[other voice] “Is it a possibility the source just innocently got it wrong?”

[Duggan] No way.

[other voice] “Rather than having”

[Duggan] No way.

[other voice] “Rather than having bad motives?”

[Duggan] Nope. Absolutely not. This is one of those stories where it’s either correct or it’s incorrect, and if it’s incorrect, the only way it can be incorrect if there was ill intent. You don’t accuse someone of, especially a lawyer, they are very very touchy about their reputation, you don’t accuse someone of throwing a case and just be wrong about it. It’s something that you are either correct and the guy’s a bad lawyer, or you are wrong and you had ill intent.

[This is a portion of the broadcast, the remainder of which has been produced.] Duggan himself claims that the statements were made maliciously, and that applies equally to him as well as his alleged sources.

Moreover, notwithstanding the foregoing, Duggan’s subsequent, intentionally and knowingly false and misleading publications are further proof that the statements were made recklessly, willfully and maliciously, without any attempt to ascertain the truthfulness.

By way of further Answering, see prior pleadings and Plaintiff’s Response the Defendants Request for Production of Documents.

16. State the basis of your allegation that the statements in paragraph 32 of the Amended Complaint which of the subject matter of your claim were made with “actual malice”.

ANSWER: Objection: Plaintiff objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

Without waiving or limiting said objection, see preceding Answers, hereby incorporated by reference, in particular No. 2, 5 and 15. By way of further Answering, see prior pleadings and Plaintiff's Response the Defendants Request for Production of Documents.

17. Do you allege that Merrimack's alleged publication of the statements to the subject matter to claim were negligently published by Merrimack?

ANSWER: Yes.

18. If the answer to the preceding interrogatory is yes, state the basis of your allegation that the defendant Merrimack was negligent.

ANSWER: Objection: Plaintiff objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

Without waiving or limiting said objection, Merrimack Valley Radio knew or should have known that Duggan had a propensity to publish defamatory statements, negligently hired him for a radio show, and negligently failed to supervise, train, monitor or edit Duggan, or correct or compel him to correct his statements. Merrimack Valley knew or should have know that the statements made by Duggan were false, misleading, defamatory and intended to maliciously harm the plaintiff, and negligently failed to take any action to stop or alleviate the harm.

More specifically, upon information and belief, Merrimack Valley Radio had received complaints that Duggan had made false and defamatory statements prior to August 23, 2008. Merrimack Valley Radio gave him a radio program without any training. They failed, and continue to fail, to supervise or control him; certainly, since that time, they have been on actual notice that the statements he made regarding plaintiff and his family were false, and all the statements made on the radio about plaintiff and his family since that time have been made maliciously and recklessly and with intent to harm, and have taken no action to control or prevent his behavior.

By way of further Answering, see prior pleadings and Plaintiff's Response the Defendants Request for Production of Documents. Plaintiff reserves the right to supplement this Answer as discovery is ongoing.

19. State the basis of the allegation in paragraph 43 that the plaintiff has suffered “financial loss and damage to his unblemished professional reputation as an ethical lawyer” and provide and itemization of any specific financial losses.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

20. Identify every individual and entity possessing information or documentation substantiating your claims and he Amended Complaint.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

21. Do you agree that the subject matter of the statements alleged in paragraph 23 of the Amended Complaint were matters of concern to the general public as they referring to matters about the business of the City of Lawrence? If not, please state the basis for your contention that the matters were not of public concern.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

22. Please identify each and every person who contacted you about the alleged broadcast by Merrimack of the statements alleged in paragraph 23 of the Amended Complaint.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

23. Please identify and describe the amount of individuals who actually heard the alleged broadcast by Merrimack of the statements alleged in paragraph 23 of the Amended Complaint.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine..

24. Please identify all documents and communications which support the assertions in Paragraph 24 of the Amended Complaint.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

25. Identify every expert you will call as a witness in this case and for every expert witness so identified state:
- a. the substance of the facts and opinions to which the person will testify
 - b. the basis for each opinion;
 - c. the qualifications to be an expert.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

26. State whether your name has been mentioned in a newspaper, magazine, book, television or radio program or other medium of communication to the general public in the past 10 years and, if so, as to each such occasion, state the name and location of the medium in which it was mentioned, the approximate number or releases of such publication(s) or broadcast(s) which were printed or broadcast in which you were mentioned, and the circumstances which gave rise to the publication(s) or broadcast(s).

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

27. State whether you have ever held a press conference, issued a press release or made a public statement in the past 10 years and, if so, as to each such press conference, press release, or public statement, state the date such press conference was held or press release or public statement made, the place such press conference was held or press release or

public statement made, the circumstances which gave rise to your holding such press conference, or issuing such press release or public statement, the publications, newspapers, radio or television stations, or other media represented at such press conference (by name of publication or station, and location of its main office), or who received such press release or reported such public statement, the substance of your remarks made during the press conference or in the press release or public statement, including what representative of yours, if any, made such remarks, and to what extent, if any, the press conference, press release or public statement was reported by any publication, newspaper, radio or television station or other media.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

28. Identify, by tribunal, title, docket number and commencement date, every proceeding to which you have been a party before any court, administrative agency or governmental body in which you either initiated the proceeding or asserted any sort of claim or counterclaim.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

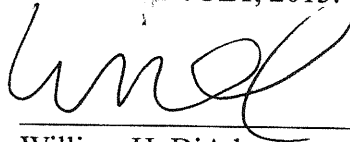
29. Please itemize all economic loss and provide a computation of damages which you sustained as result of the defendant's acts as alleged in the Complaint.

ANSWER: Objection: Plaintiff objects to this Interrogatory on the grounds that exceeds without permission the number of Interrogatories allowed pursuant to Mass. R. Civ. P. 33(a)(2), and therefore Plaintiff need not answer. Plaintiff further objects to this interrogatory to the extent that it violates the attorney-client privilege or work product doctrine.

30. Please state the name and address of all physicians, counselors, social workers, psychotherapists and such like with whom you treated or consulted as a result of your alleged mental suffering, including dates of all visits, treatments or consultations.

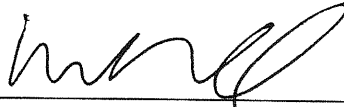
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SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY
ON THIS THE 26th DAY OF JULY, 2013.



William H. DiAdamo

As to Objections,
Respectfully Submitted
Plaintiff
By his Attorney

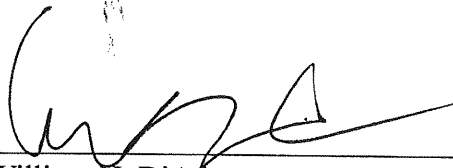


William H. DiAdamo

William H. DiAdamo LLC
40 Appleton Way
Lawrence, MA 01840
978-229-2345
william@diadamo.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served via first class mail
upon all counsel of record on July 26, 2013.



William H. DiAdamo

LAWSON & WEITZEN, LLP

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TELEPHONE (508) 255-3600

January 21, 2014

VIA EMAIL and FIRST CLASS MAIL

William H. DiAdamo, Esq.
40 Appleton Way
Lawrence, MA 01840

Re: William H. DiAdamo v. Thomas J. Duggan, Jr. et al., C.A. No. ESCV2008-1931-D

Dear Mr. DiAdamo:

This letter is a formal request pursuant to Mass. R. Civ. P. 26(e)(3) that you supplement your responses to the Interrogatories and Requests for Production of Documents propounded by the defendant Merrimack Valley Radio, LLC.

Regarding the interrogatories, your previous objections to Interrogatories 19-30 based on Rule 33(a)(2) are invalid. The subparts in Interrogatories 5, 6, and 7 specifically request details in your answer to an interrogatory and as such constitute legitimate subparts of one question and not separate and independent interrogatories. *Nessara Ins. Agency, Inc. v. New Eng. Serv. Station & Auto. Repair Ass'n*, No. WOCV11-1956, 2012 Mass. Super. LEXIS 100, 29 Mass. L. Rptr. 555 (Apr. 24, 2012) (Ricciardone, J.); *Mindes v. D. Masters Enters.*, No. WOCV07-1003, 2008 Mass. Super. LEXIS 351, 24 Mass. L. Rptr. 606 (Oct. 6, 2008) (Agnes, J.). In your supplement, please include answers to all of the interrogatories. Additionally, please adhere to the requirements of Sup. Ct. Standing Order 1-09(2) and –if you withhold information from your answer – “describe the nature of the information withheld and identify each objection asserted to justify the withholding.”

Regarding the document requests, please provide a privilege log pursuant to Mass. R. Civ. P. 26(b)(5)(A). This is not a new obligation and we expect that you can produce this forthwith given that you responded to this request on June 24, 2013. Additionally, we request that you produce the responsive documents to us electronically. In the alternative, we would seek to inspect the documents responsive to the requests on January 30, 2014 and/or January 31, 2014 at your office as they are kept in the ordinary course of business.

*ALSO ADMITTED IN NY
**ALSO ADMITTED IN NH
+ALSO ADMITTED IN DC
++ALSO ADMITTED IN RI, CT, NH & ME
***ONLY ADMITTED IN PA
+++ALSO ADMITTED IN RI, CT, & NH

LAWSON & WEITZEN, LLP

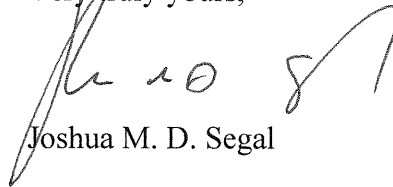
William H. DiAdamo, Esq.

January 21, 2014

Page 2

As you know, we are nearing a court-imposed deadline for discovery of March 31, 2014 and will need to move for judicial intervention concerning your claims of privilege. As a result, we request your supplemental responses at your earliest convenience. In addition, if you believe that we can narrow our disagreement concerning the scope of the attorney-client privilege in this matter, please advise of a time that we can confer pursuant to Super. Ct. R. 9C.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. M. D. Segal", is written over the typed name.

Joshua M. D. Segal

Cc (by email only): J. Mark Dickison, Esq.
James M. Bowers, Esq.
Steven J. Brooks, Esq.
Adam G. Cohen, Esq.
Peter Caruso, Esq.
Young Han, Esq.
Allan Knowles, Esq.

LAWSON & WEITZEN, LLP

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February 6, 2014

VIA EMAIL and FIRST CLASS MAIL

William H. DiAdamo, Esq.
40 Appleton Way
Lawrence, MA 01840

Re: William H. DiAdamo v. Thomas J. Duggan, Jr. et al., C.A. No. ESCV2008-1931-D

Dear Mr. DiAdamo:

This letter is a follow-up to our conversations before and during your deposition earlier this week. First, at the deposition, you proposed that instead of answering (or refusing to answer) questions concerning conversations you had with employees of the City of Lawrence concerning the Andrea Traficanti matter, you would prepare a "privileged communication log." In this log, and analogous to Mass. R. Civ. P. 26(b)(5), please include the participants in the conversation, the date of the conversation, and in general terms, the subject matter of the conversation. In this log, please include all conversations with city employees, including, but not limited to, Miles Burke, Frank Bonet, Judy Perkins, Michael Sullivan, Kevin Sullivan, Mark Andrews, Tom Schiavone, Nora Carroll, Michael Sweeney, Charles Boddy, and Frank McCann.

Second, enclosed with this letter, please find a copy of the errata sheet from your first day of deposition. Please complete this and return it to us.

Third, at your deposition you discussed a written waiver of the attorney client privilege that you received from the City of Lawrence and indicated that you would provide said waiver to all defense counsel. This serves as a formal request that you do so.

*ALSO ADMITTED IN NY
**ALSO ADMITTED IN NH
+ALSO ADMITTED IN DC
++ALSO ADMITTED IN RI, CT, NH & ME
***ONLY ADMITTED IN PA
+++ALSO ADMITTED IN RI, CT, & NH

LAWSON & WEITZEN, LLP

William H. DiAdamo, Esq.

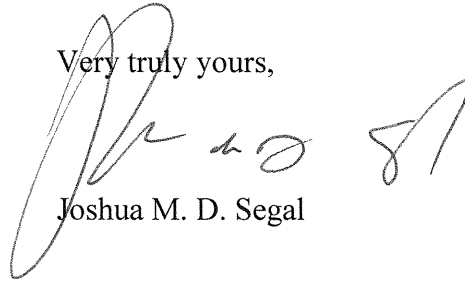
February 6, 2014

Page 2

Finally, enclosed with this letter to you is the USB drive you previously sent my office from which we were unable to extract any documents. We are still waiting for your response to the request for production of documents. Please produce those documents in a way that they are readable on a Windows 7 PC or in some other format. Alternatively, please advise of times when we can inspect and copy responsive documents.

I appreciate your prompt attention to these matters.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Joshua M. D. Segal', is written over the typed name. The signature is fluid and cursive.

Joshua M. D. Segal

Encl.

Cc (by email only): J. Mark Dickison, Esq.
James M. Bowers, Esq.
Steven J. Brooks, Esq.
Adam G. Cohen, Esq.
Peter Caruso, Esq.
Young Han, Esq.
Allan Knowles, Esq.

Exhibits: 1-4

Volume 1, Pages 1-152

COMMONWEALTH OF MASSACHUSETTS

Essex County

Superior Court

WILLIAM H. DiADAMO,

Plaintiff

vs.

Docket No. 08-1931D

THOMAS J. DUGGAN, JR.,

VALLEY PATRIOT, INC.,

MERRIMACK VALLEY RADIO, LLC,

MICHAEL SWEENEY,

WILLIAM MANZI, and

THOMAS SCHIAVONE,

Defendants

DEPOSITION OF WILLIAM H. DiADAMO

Monday, September 23, 2013, 10:13 a.m.

Lawson & Weitzen, LLP

88 Black Falcon Avenue, Suite 345

Boston, Massachusetts

----- Janis T. Young, RDR, CRR -----

jty@fabreporters.com www.fabreporters.com

Farmer Arsenault Brock LLC

50 Congress Street, Boston, Massachusetts 02109

617-728-4404 Fax 617-728-4403

<div>1 APPEARANCES: 2 William H. DiAdamo, Esq. 3 William H. DiAdamo, LLC 4 40 Appleton Street 5 Lawrence, Massachusetts 01840 6 978-229-2345 Fax 888-345-1124 7 william@diadamo.com 8 appearing pro se 9 Peter J. Caruso, Esq. 10 Caruso & Caruso, LLP 11 68 Main Street 12 Andover, Massachusetts 01810 13 978-475-2200 Fax 978-475-1001 14 pcarusosr@carusoandcaruso.com 15 for Thomas J. Duggan, Jr. 16 Allan L. Knowles, Esq. 17 The Law Office of Allan Knowles 18 75 Main Street, Suite 2 19 North Andover, Massachusetts 01845 20 781-850-6394 21 knowleslawoffice@aol.com 22 for Valley Patriot, Inc. 23 J. Mark Dickison, Esq. 24 Joshua Segal, Esq. Lawson & Weitzen, LLP 88 Black Falcon Avenue, Suite 345 Boston, Massachusetts 02210 617-439-4990 Fax 617-439-3987 mdickison@lawson-weitzen.com jsegal@lawson-weitzen.com for Merrimack Valley Radio, LLC</div>	<div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</div>
<div>1 APPEARANCES (Continued); 2 Steven J. Brooks, Esq. 3 Brooks & Crowley LLP 4 The Ames Schoolhouse Office Center 5 450 Washington Street, Suite LL9 6 Dedham, Massachusetts 02026 7 781-251-0555 x106 Fax 781-251-0552 8 stevenbrooks@brooksandcrowley.com 9 for Michael Sweeney 10 Young B. Han, Esq. 11 Davids & Cohen 12 40 Washington Street, Suite 20 13 Wellesley, MA 02481 14 781-416-5055 Fax 781-416-4344 15 yhan@davids-cohen.com 16 for William Manzi 17 ALSO PRESENT: 18 19 Thomas J. Duggan, Jr. 20 21 22 23 24</div>	<div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</div>

<p style="text-align: right;">6</p> <p>1 and again, just to put this all on the record, we've</p> <p>2 had looming out there for whatever it is, the five</p> <p>3 or so years that this case has been in existence, an</p> <p>4 attorney-client privilege that has to do with a</p> <p>5 major component of this case.</p> <p>6 It is my intent to basically stay away</p> <p>7 from that today, until we get some sort of a judge's</p> <p>8 ruling on how we are permitted to deal with it.</p> <p>9 (Mr. Brooks entered the room.)</p> <p>10 MR. DICKISON: Attorney Brooks is in the</p> <p>11 room.</p> <p>12 You haven't missed much; we're just</p> <p>13 getting into the stipulations.</p> <p>14 Q. So we're going to operate under the usual</p> <p>15 stipulations: All objections except as to form are</p> <p>16 saved until the time of trial; same with motions to</p> <p>17 strike. You'll read and sign within 30 days after</p> <p>18 receiving the transcript; we'll waive the notary</p> <p>19 requirement. Is that okay?</p> <p>20 A. That's fine.</p> <p>21 And just to be very clear, I'm reserving</p> <p>22 all objections. I'm certainly not waiving any, and</p> <p>23 I'm not waiving the right to make any objections</p> <p>24 that I feel are necessary to protect the privileges</p>	<p style="text-align: right;">8</p> <p>1 A. 40 Appleton Way in Lawrence, Massachusetts.</p> <p>2 Q. And the name of your practice is William H.</p> <p>3 DiAdamo, LLC; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. How long has that practice existed?</p> <p>6 A. I'm guessing it's about five or six years.</p> <p>7 It was DiAdamo Law Office, LLP. At some point,</p> <p>8 right around this time frame -- and to be honest, I</p> <p>9 don't remember the exact year -- my father retired.</p> <p>10 Q. Can you briefly give us your educational</p> <p>11 background?</p> <p>12 A. Sure. I graduated from Middlebury College</p> <p>13 in 1983. I graduated from Boston University Law</p> <p>14 School in 1991, and I have been practicing since</p> <p>15 that time.</p> <p>16 Q. After you left BU, where did you practice</p> <p>17 law?</p> <p>18 A. At Burns & Levinson.</p> <p>19 Q. How long were you at Burns & Levinson?</p> <p>20 A. Until 2000; I believe April of 2000.</p> <p>21 Q. What was your position at Burns & Levinson?</p> <p>22 A. I was an associate.</p> <p>23 Q. What was your practice of law at Burns &</p> <p>24 Levinson, if you could give us a general</p>
<p style="text-align: right;">7</p> <p>1 or whatever else, any other objections that I have.</p> <p>2 And again, we're in the unusual</p> <p>3 circumstance that I don't have a lawyer here</p> <p>4 objecting for me. I will try to state the objection</p> <p>5 at the outset of the question, just to make the</p> <p>6 record a little bit more clean, the way we usually</p> <p>7 do things.</p> <p>8 Q. So without further ado, will you state your</p> <p>9 full name for the record.</p> <p>10 A. William H. DiAdamo.</p> <p>11 Q. Where do you currently reside?</p> <p>12 A. North Andover, Massachusetts.</p> <p>13 Q. Are you employed?</p> <p>14 A. I am.</p> <p>15 Q. How are you employed?</p> <p>16 A. I have a law firm, William H. DiAdamo, LLC,</p> <p>17 of which I am the sole member.</p> <p>18 Q. You're admitted to the Massachusetts bar?</p> <p>19 A. Correct.</p> <p>20 Q. When were you admitted to the bar?</p> <p>21 A. '91.</p> <p>22 Q. And you're a bar member in good standing?</p> <p>23 A. Correct.</p> <p>24 Q. Where is your law office currently located?</p>	<p style="text-align: right;">9</p> <p>1 description?</p> <p>2 A. Sure; I'll do my best.</p> <p>3 I started out in the general-litigation</p> <p>4 department, which was a catch-all for a whole bunch</p> <p>5 of things. I did a lot of, especially initially,</p> <p>6 insurance-defense sort of work, everything from car</p> <p>7 accidents and property damage to things that were</p> <p>8 far bigger and more complex, products liability,</p> <p>9 medical malpractice, et cetera, et cetera; the sort</p> <p>10 of full range of that sort of stuff.</p> <p>11 As time went on, I also became sort of a</p> <p>12 catch-all for lots of odd ducks that came down the</p> <p>13 pike. I don't know how or why exactly, but I did.</p> <p>14 I essentially stayed in that general-</p> <p>15 litigation practice until I left in 2000.</p> <p>16 Q. Some of these questions I'm asking just to</p> <p>17 create a record, and it's obvious; but Burns &</p> <p>18 Levinson is located in Boston, Massachusetts?</p> <p>19 A. That's correct. I think, to the best of my</p> <p>20 knowledge, they're still at 125 Summer Street, which</p> <p>21 is where I was with them.</p> <p>22 Q. And during that time that you were</p> <p>23 practicing law at Burns & Levinson and being a civil</p> <p>24 litigator, which courts did you practice in?</p>

<p style="text-align: right;">10</p> <p>1 A. It was almost all in Massachusetts. I 2 remember a trial in Rhode Island. Occasionally we'd 3 go to other places; Florida, for example. 4 I did asbestos defense work for a period 5 of time, and so traveled around doing depositions there. 6 Those weren't courts, but just in terms of 7 jurisdictions I was in. 8 The vast majority of what I did was in 9 the Massachusetts state courts; some federal court, 10 some district court. 11 Q. And during your time at Burns & Levinson, 12 did you practice at all in Essex County; Essex 13 Superior Court -- 14 A. Oh, yes. 15 Q. -- Essex Probate Court? 16 A. I'm sorry; I should let you finish the 17 question. I should know the rules. 18 I can't say whether or not I was ever in 19 Essex Probate Court during that time period. I did 20 not do much, if any, probate. May have been; I 21 don't remember. 22 Certainly in the superior courts and in 23 the district courts. I will also say that when I 24 was at Burns & Levinson I went all over the place.</p>	<p style="text-align: right;">12</p> <p>1 think, so I was five or six years old. 2 I went to Andover schools. I went to 3 Phillips Academy in Andover. 4 Q. Did you graduate from Phillips Academy? 5 A. I did. 6 And I may have given you the wrong 7 numbers, now that I think about it. Did I say 8 Middlebury '83? If I did, then I'm incorrect. It's 9 Phillips Academy, '83; Middlebury, '87; BU Law, '91. 10 Sorry about that. 11 And with the exception of being in 12 college and then living in Boston for a chunk of 13 time, I have lived either in Andover or North 14 Andover. 15 Q. And you currently reside in North Andover? 16 A. Correct. 17 Q. Who do you reside there with? 18 A. My wife and children. 19 Q. How old are your children? 20 A. My children are 16, 13 and eight. 21 Q. In North Andover, do you hold any political 22 offices? 23 A. I have never held any political office. 24 Q. Are you involved in the community in any</p>
<p style="text-align: right;">11</p> <p>1 For some reason, I remember I had tons 2 of cases in Brockton, which was always a pain in the 3 neck because I had to drive to Brockton for morning 4 trials, whatever. 5 Q. And during the time that you were at Burns 6 & Levinson, where did you reside? 7 A. I resided in Boston for a couple of years 8 before I moved out to North Andover. 9 Q. And approximately when did you move out to 10 North Andover? 11 A. '95. 1995. 12 Q. Just so you know where I'm going with these 13 sets of questions, I'm trying to determine your ties 14 and connections to Essex County. 15 Just going backward for a moment, where 16 were you born and raised? 17 A. I was born in Boston. I don't remember 18 ever living in Boston. My parents moved out to 19 Andover when I was very little. My dad's from 20 Methuen. 21 I grew up in Andover. Two or three 22 years, when my parents first moved out there, they 23 were in one house, but I grew up in the house that 24 they still live in. They moved there in 1970, I</p>	<p style="text-align: right;">13</p> <p>1 sense other than practicing law in the adjoining 2 town? 3 A. Broad question; I'm not sure how to answer 4 it. 5 I coach youth soccer. I'm involved with 6 various hockey leagues. I have served on the board 7 of trustees of Northern Essex Community College. I 8 have done other community stuff for Lazarus House. 9 It's very hard to quantify. I could 10 sort of go on and on with examples, but.... 11 Q. Just going back to your time at Burns & 12 Levinson at the time you left in 2000, when you were 13 there, did you ever practice law representing any 14 federal or state agencies? 15 A. There were things that I touched on, and 16 honestly I'm not sure I can quantify all of it. 17 There was a gentleman who came in at one 18 point that was a government-relations guy. I'm 19 blanking on his name, although I can picture his 20 face. And I know I helped him out with various 21 things, but it was more of an ad-hoc rather than 22 handling particular cases. 23 Robert Corti was there at Burns & 24 Levinson for a brief period of time, as was Warren</p>

<p style="text-align: right;">14</p> <p>1 Tolman, both of whom have had political careers in 2 Massachusetts, and sort of touched on things here 3 and there. But I did not have any particular 4 specialty or representation of government bodies. 5 My brother was an assistant general 6 counsel and then a general counsel for Mass. Highway 7 and the MBTA for a period of time, and so I had some 8 interaction with him. 9 I didn't do direct business, but -- and 10 this will come full circle at some point -- but my 11 brother worked at Mass. Highway, at least at Mass. 12 Highway, for Kevin Sullivan, who is related to all 13 of this at least tangentially. 14 And, I'm sorry, I lost the thread. 15 I understand what the question was, but -- 16 Q. Let me just go back. 17 Just focusing on the time period when 18 you were about to leave Burns & Levinson and go on 19 with your legal career, did you directly represent, 20 in terms of the clients who were your own, any state 21 or federal agencies or municipalities at that point 22 in time? 23 A. I don't think so. Not that I can recall 24 offhand.</p>	<p style="text-align: right;">16</p> <p>1 Q. Just focusing right now at the time in 2000 2 when you left Burns & Levinson to join your father, 3 did he have any other partners or associates at that 4 point in time? 5 A. My father is not the sort that would have 6 had partners in the traditional sense. He very much 7 remained in control of whatever he was doing. 8 I believe when I joined him that he was 9 working with Ted Fairburn, and it may have been 10 called DiAdamo & Fairburn; but I'm not positive what 11 the iteration was at that point. And I believe Herb 12 Dike was also working there. 13 Q. At the time you left to join your father's 14 practice, what generally did his practice consist 15 of; what types of clients, and what types of work? 16 A. A wild, almost bizarre, variety of 17 different things. It was an old-time, somewhat of a 18 dinosaur practice, where he represented more of an 19 area, a geographical area, if I might, than he did 20 of a particular kind of thing. 21 He did workers' comp, environmental, 22 personal injury, all kinds of business cases. It 23 was almost the complete spectrum of what you would 24 do. He did wills, he did probate. We had</p>
<p style="text-align: right;">15</p> <p>1 Q. And when you left Burns & Levinson, were 2 there any particular clients that you took with you, 3 so to speak, that were your own clients? 4 A. No. Most of what I went out with, I think, 5 more or less sort of intentionally left in Boston. 6 I started in a relationship with Burns & Levinson 7 and really went out to join and assist my father, 8 and take over that practice. 9 Q. Now, at the time you left Burns & Levinson, 10 you joined your father, Carmine DiAdamo, in the 11 practice of law in Lawrence; is that correct? 12 A. Correct. 13 Q. What was the name of his law practice at 14 that time? 15 A. At that point, I am not sure. It was for a 16 long time I believe the Law Offices of Carmine W. 17 DiAdamo. At that point it may have been DiAdamo & 18 Fairburn. 19 As many smaller practices do, it had 20 various iterations. He was always the main guy as 21 far as I was concerned, but he had a guy named Jim 22 Hyde work for him for a while. A number of people 23 worked for him, but I think at one point it may have 24 been called DiAdamo & Hyde.</p>	<p style="text-align: right;">17</p> <p>1 shareholder cases. We had almost anything that you 2 would find in a big firm, other than we didn't do 3 anything tax-related; didn't do anything 4 specifically like that. 5 There was still insurance defense, there 6 was workers' compensation, there was some tangential 7 municipal stuff. 8 Just about anything you can think of, I 9 could probably have found in that office. 10 Q. And at that time, where was his practice 11 located? 12 A. Where it is now, 40 Appleton Way, where I 13 am at. 14 Q. And 40 Appleton Way, was that building or 15 premises owned by your father at that time, either 16 individually or by way of some trust or other 17 entity? 18 A. Yes. It's owned by 237 Essex Street Realty 19 Trust. My father is the trustee of that trust. 20 Q. And how long has he owned that building, if 21 you know? 22 A. I don't know exactly. I have a memory of 23 him moving in there sometime in the mid-'80s, but I 24 couldn't put a specific date on it.</p>

<p style="text-align: right;">18</p> <p>1 Q. And that location has always been proximate 2 to the Essex Superior Court; correct? 3 A. Yes. The Essex Superior Court has been 4 there for however long. 5 Q. And it's also proximate to Lawrence City 6 Hall? 7 A. Yes. City Hall has been there for however 8 long; a hundred and some-odd years, I would think. 9 Q. Now, when you joined your father's practice 10 in 2000, did he represent the City of Lawrence at 11 that point in time? 12 A. The pause is because I don't know exactly 13 what he was doing at any given time, because he has 14 variously been in and out. 15 Let me put it this way. I had no 16 awareness of any specific thing that he was doing 17 for the City of Lawrence at that point. He may have 18 been, because he's represented various people in the 19 city off and on since he got there in the '60s. 20 Q. Before I get into what you did with your 21 dad's practice, which became your own practice, let 22 me just ask you a couple of questions about your 23 family. 24 Your father, Carmine DiAdamo, is a</p>	<p style="text-align: right;">20</p> <p>1 Q. Does he have any personal knowledge or 2 involvement in the facts that are at issue in this 3 amended complaint? 4 A. None whatsoever. 5 Q. Do you have any other siblings? 6 A. I do. I have a sister, but smart enough 7 not to go to law school. 8 Q. She's never been involved in either your 9 father's practice of law or your own? 10 A. Not at all. 11 Q. Now, after you joined your father's 12 practice in 2000, did the name of his practice 13 change? 14 A. Again, I don't remember exactly what the 15 name was at that point. I think it was probably 16 DiAdamo & Fairburn. It stayed there that way for a 17 year or two or three. Then Ted Fairburn and Herb 18 Dike left, and it was essentially my father and I. 19 Around that time, early 2000s -- like 20 '03, '02, something like that -- I think it became 21 DiAdamo Law Office, LLP; and I think it remained 22 that until it became William H. DiAdamo, LLC. 23 Q. Now, when you left Burns & Levinson to join 24 your father's practice, was there, in sum and</p>
<p style="text-align: right;">19</p> <p>1 practicing lawyer, and has been since the '60s; is 2 that correct? 3 A. My father -- I should probably know this -- 4 I believe graduated law school in 1967. 5 I think he worked for Liberty Mutual for 6 a year or two, and then headed out and joined a 7 small firm, like most firms were at that time, in 8 Lawrence; and then I couldn't tell you what year he 9 struck out on his own. Again, I was a little kid. 10 Q. And you mentioned that you have another 11 brother who is also a lawyer? 12 A. That's correct. 13 Q. What's his name? 14 A. Robert DiAdamo. 15 Q. Has he ever practiced law with your father? 16 A. No. 17 Q. Has he ever been associated with or a 18 partner in your current practice? 19 A. No. 20 Q. Does he have any connection to the City of 21 Lawrence? 22 A. I think he worked there one summer as an 23 intern or some such for Kevin Sullivan, but I 24 couldn't swear to that.</p>	<p style="text-align: right;">21</p> <p>1 substance, a discussion between you and your father 2 that you would essentially become associated with 3 him and then eventually take over his practice as he 4 retired? 5 A. Less than you would think. Even in 6 retrospect, I'm not exactly sure how and why I 7 decided to do what I did. It probably had as much 8 to do with family as with anything else, trekking 9 into Boston with small children and such. It became 10 more onerous. 11 Also, I had the sense that things at 12 Burns & Levinson were changing. When I got to Burns 13 & Levinson, I had the benefit of working for a guy 14 named John Donovan, whom you may know either from 15 there or from a later incarnation as Donovan Hatem. 16 John was a great guy, and I was very 17 fortunate to work with him. I know a lot of people 18 who went to big firms at that time period who hated 19 the big-firm experience, and Burns & Levinson was 20 relatively speaking a big firm at that time. 21 It was a regularly smaller group with 22 John Donovan, and I had also a good relationship 23 with Tom Burns. In fact, the first case I ever 24 second-chaired was for Tom Burns; a somewhat nerve-</p>

<p style="text-align: right;">22</p> <p>1 wracking experience, but a very rewarding one. So I 2 had a very good quality of life, for lack of a 3 better term, at Burns & Levinson. 4 But I was in the insurance-defense 5 department, which meant that generally speaking 6 rates were lower than maybe in other parts of the 7 firm; and you could sense that there was occasional 8 tension between other parts of the firm and general 9 litigation. 10 And so that had as much to do with it as 11 anything else. I had the feeling that something was 12 going to change. Sure enough, a couple months after 13 I left, I think John Donovan left with David Hatem, 14 who by the way is from Lawrence, and formed Donovan 15 Hatem. 16 Q. So that breakoff of Donovan Hatem from 17 Burns & Levinson occurred subsequent to your 18 departure? 19 A. Within a few months; because I remember 20 having a conversation with John and a couple of 21 other people that I couldn't imagine John leaving 22 with David. 23 I worked for both of them, and I liked 24 both of them. I just knew that they were very</p>	<p style="text-align: right;">24</p> <p>1 started practicing law in Lawrence? 2 A. I'm sorry; you said 2000 to 2008? 3 Q. Yes, during that time period. I know it's 4 a long time period. 5 A. I'm sorry; I didn't understand your 6 question. 7 Q. Sure. I'm just looking for you to describe 8 the types of clients you had and the types of cases 9 you were handling once you started practicing law 10 with your father in Lawrence, Massachusetts after 11 you joined the firm in 2000. 12 A. As I was stating earlier, it's a very wide 13 variety of types of cases; and it would be difficult 14 for me to quantify, because it's almost hard to 15 imagine what we haven't done out there. 16 Q. Let me ask you specific questions. 17 So I think it's fair to say that at some 18 point between 2000 and 2008 you began representing 19 the City of Lawrence with respect to workers' 20 compensation claims. Is that correct? 21 A. Yes. I think it was a year or two after, 22 and I couldn't put an exact date on it, but I don't 23 think that I did that out of the gate. 24 In fact, when I went out initially to</p>
<p style="text-align: right;">23</p> <p>1 different personalities. So I was both surprised, I 2 guess, and not surprised when they peeled off. 3 Q. Focusing on the time when you started 4 practicing law in Lawrence around 2000, had you in 5 your mind any appreciable reputation as a lawyer in 6 the City of Lawrence or surrounding areas? 7 A. I would say yes. It's very hard to 8 quantify what your reputation is at any given time. 9 Everybody at Burns & Levinson was 10 familiar with my father, and so as time went on I 11 was probably doing more and more work in Essex 12 County. I had tried a number of cases, and was 13 certainly involved in a large number of cases, in 14 Essex County. 15 And I had probably more of a reputation 16 in legal circles than in the community at large, but 17 Tom Burns had lived in North Andover for years and 18 years. So, for example, there were connections to 19 representing people in this area -- I shouldn't say 20 in this area -- in Essex County through Burns & 21 Levinson. 22 Q. Could you just describe for us what types 23 of cases during the time period of 2000 to 2008 you 24 were involved with subsequent to the time you</p>	<p style="text-align: right;">25</p> <p>1 join my dad, Ted and Herb were more heavily involved 2 in the workers' compensation part of things than I 3 was. 4 I don't honestly remember whether or not 5 they were doing City of Lawrence workers' comp at 6 that time. I don't think so. I think they may have 7 been doing City of Methuen at that time. 8 At some point I had become involved -- I 9 want to say in 2002, but I can't be sure -- doing 10 workers' comp for the City of Lawrence. 11 Q. How did your firm procure that work? Was 12 it because of your own diligence in talking to folks 13 at the City of Lawrence, or was there some sort of 14 request for proposals that you answered, or was it a 15 relationship through your father with the folks in 16 the City of Lawrence? 17 A. I'm sure it had more to do with my father 18 than it did with me, but I can't specifically say. 19 Again, I don't recall picking it up sort 20 of as a package at one point. It evolved over some 21 period of time. That's why I say I'm not really 22 sure whether or not Ted or Herb dealt with it at 23 that point. But sometime in the early '2000s, I 24 started doing more and more.</p>

<p style="text-align: right;">26</p> <p>1 Q. Was there any specific contract that you</p> <p>2 had with the City of Lawrence in terms of the</p> <p>3 workers' compensation work you would do, or was the</p> <p>4 legal work provided to you on a case-by-case basis?</p> <p>5 A. Well, as cases happened. And thinking back</p> <p>6 on it, I do believe that maybe my dad had had the</p> <p>7 workers' comp during this entire period. I don't</p> <p>8 remember if it left for a period of time -- maybe,</p> <p>9 maybe not -- because of various mayors coming in and</p> <p>10 not coming in.</p> <p>11 Strike that; I'm sorry. You would think</p> <p>12 I would remember this stuff more specifically than I</p> <p>13 do.</p> <p>14 Quinn & Morris had it for a period of</p> <p>15 time, and I believe that I took it over when it was</p> <p>16 taken back from Quinn & Morris. I only remember</p> <p>17 that because Quinn & Morris at that point was in</p> <p>18 Boston, and I remember dealing with them at some</p> <p>19 point.</p> <p>20 So it was away from us for a period of</p> <p>21 time; and then, when it came back, to more fully</p> <p>22 answer your question, we handled to my knowledge</p> <p>23 every workers' comp claim that came in, which was</p> <p>24 really from soup to nuts.</p>	<p style="text-align: right;">28</p> <p>1 them last Tuesday. I would think that we would</p> <p>2 retain copies of them.</p> <p>3 Q. Just generally talking about the work you</p> <p>4 performed for the City of Lawrence with regard to</p> <p>5 workers' compensation claims, do you have any</p> <p>6 ability to tell us, during this time period of</p> <p>7 approximately 2002 to 2008, how many cases you'd</p> <p>8 handle a year?</p> <p>9 A. Oh, it depends on what you mean by handle,</p> <p>10 because, as I said, there's a wide variety in</p> <p>11 workers' comp. There are people who have medical-</p> <p>12 only claims; broken fingers, something like that.</p> <p>13 So my involvement in that may be more</p> <p>14 fleeting; in that you would give some advice or say,</p> <p>15 okay, well, he's got a broken finger -- I'm making</p> <p>16 this up -- and he can't operate a jackhammer, so</p> <p>17 where can we move him?</p> <p>18 And that may involve issues where you</p> <p>19 have to ask somebody about union contracts, because</p> <p>20 somebody who is in DPW is probably in the union,</p> <p>21 which means that maybe they're slated to be on the</p> <p>22 jackhammer.</p> <p>23 Those sorts of questions; which would be</p> <p>24 almost less workers'-comp-related than they would be</p>
<p style="text-align: right;">27</p> <p>1 It's the full panoply of what you can do</p> <p>2 in comp. Somebody comes in and they've hurt their</p> <p>3 finger, somebody may have a question about it; and</p> <p>4 because of the proximity, there may be questions</p> <p>5 about that, there may not be. There are some cases</p> <p>6 you would never really even hear about.</p> <p>7 Certainly, if anything reached a more</p> <p>8 legal stage, then that would be sent to us.</p> <p>9 Q. Do you know whether there was ever reduced</p> <p>10 to writing any contract or document between your</p> <p>11 firm, or your father's firm, and the City of</p> <p>12 Lawrence regarding the work that was performed in</p> <p>13 workers' compensation cases?</p> <p>14 A. Yes; I believe there's a contract, and has</p> <p>15 been for a long period of time.</p> <p>16 Q. And was there a series of contracts, or</p> <p>17 just one?</p> <p>18 A. A series of contracts.</p> <p>19 Q. Generally, I don't recall seeing that, and</p> <p>20 it's possible we haven't requested that. Are those</p> <p>21 contracts or sets of contracts something that you</p> <p>22 still have?</p> <p>23 A. I would think so, but I can't remember the</p> <p>24 last time I looked at them. I can't say, gee, I saw</p>	<p style="text-align: right;">29</p> <p>1 on how do we get people back to work and doing</p> <p>2 something like that.</p> <p>3 Some of them were far more intense,</p> <p>4 cases that went all the way through hearing, up</p> <p>5 through the review board and wherever else.</p> <p>6 Q. Let me ask the question a little bit</p> <p>7 differently.</p> <p>8 Can you tell us generally what the terms</p> <p>9 of the contract were; the written contract between</p> <p>10 you and the City of Lawrence?</p> <p>11 A. I can tell you better, probably, what the</p> <p>12 relationship was.</p> <p>13 Generally speaking, the contract,</p> <p>14 especially as it evolved -- we took it back in</p> <p>15 2002-ish, something like that -- as you pointed out,</p> <p>16 my office is right next to City Hall, and so there</p> <p>17 was always an informal back-and-forth depending on</p> <p>18 who was handling comp.</p> <p>19 Let me distinguish even further, that we</p> <p>20 were doing comp for the city, and that was pretty</p> <p>21 much anybody who would be covered by comp in the</p> <p>22 city.</p> <p>23 We were also covering comp for the</p> <p>24 Lawrence School Department, which technically is</p>

<p style="text-align: right;">30</p> <p>1 also the City but has a large piece of itself. They 2 manage themselves, largely. So I would deal with 3 them for most of my tenure doing Lawrence comp. 4 The teachers were not part of the comp 5 world; so I did not deal with the teachers 6 specifically, but all the administrative staff, 7 cafeteria workers, things like that. 8 Q. How did your firm get compensated in 9 general terms for the workers' comp? 10 A. It was a flat fee. I believe it was 11 \$48,000 a year. 12 Q. Flat fee for a year? 13 A. Flat fee for everything, and that was 14 basically whatever came down the pike. 15 Q. And aside from performing workers' 16 compensation services for the City of Lawrence and 17 its school department, did you provide workers' 18 compensation during this time period for any other 19 municipalities? 20 A. Municipalities? I know that my father did 21 work for Methuen for a number of years. I think 22 when I was there Ted and Herb may still have been 23 doing Methuen. 24 I can't remember the exact year, and I</p>	<p style="text-align: right;">32</p> <p>1 recall; what year? 2 A. I don't recall the year. The number that 3 popped into my head was 2004, but that could be dead 4 wrong. It was somewhere in the mid-2000s. 5 Q. Would you agree with me that it occurred 6 prior to the date of the broadcast of August 23, 7 2008? 8 A. Absolutely. 9 Q. And what was your role in the Pedallaro 10 case in terms of -- 11 A. I handled the workers' compensation at the 12 board, and that went through the usual iterations. 13 That case was tried to a conclusion. 14 I don't know if you have any involvement 15 with workers' compensation. 16 Q. Just generally. 17 A. Just generally; okay. 18 So, a two-second primer on workers' comp 19 is, because it's administrative, there's a pretty 20 set format for how it goes. A claim is filed, 21 there's a conciliation, then at some point after 22 there's a conference and there's a hearing. 23 That case went through a hearing; the 24 judge found for Ms. Pedallaro at the hearing.</p>
<p style="text-align: right;">31</p> <p>1 don't remember who the mayor was in Methuen, but 2 they decided to bring workers' comp defense more or 3 less in house. I don't remember what year that was. 4 Sometime in the early or first five years of 2000, 5 something like that. 6 So we weren't doing Methuen at that 7 point, and I don't think we were doing any other 8 municipalities at that point. 9 Q. Just with respect to the workers' 10 compensation work you were doing in the time period 11 2002 to 2008 for the City of Lawrence, aside from 12 Ms. Traficanti's case, were there any what I would 13 call high-profile cases where you had a claim that 14 was filed against the City that for whatever reason 15 merited coverage in the local media? 16 A. Certainly I know that there was a lot of 17 interest in the Jen Pedallaro case. I'm trying to 18 think if there was anyone else. There may well have 19 been. The Pedallaro one stands out because of its 20 involvement here. 21 I'm just trying to think if there's 22 anything else that jumps out. That one stuck in my 23 head because of this. 24 Q. When did the Pedallaro case start, if you</p>	<p style="text-align: right;">33</p> <p>1 But in the comp world, there are 2 different levels of benefits; there's temporary 3 total, there's temporary partial, and there's 4 permanent total. So we went through the temporary 5 total, we had a hearing on that; and then you have 6 to file another claim for permanent total. 7 At some point a claim was filed for 8 permanent total, and I think that went through the 9 conference stage and then was resolved thereafter. 10 Q. Just to be implicitly clear, you were 11 representing the City of Lawrence during this 12 process? 13 A. Correct. 14 Q. Who was representing Ms. Pedallaro? 15 A. For workers' comp it was Alan Pierce, who 16 is located in Salem. 17 There was also a third-party case, which 18 I had very little involvement with other than sort 19 of knowledge of it, that I believe was pending in 20 the federal court; but I'm not even sure if it was 21 the federal or the state court. 22 Q. And what was the essence of the claim 23 Ms. Pedallaro had against the City of Lawrence? 24 A. For workers' comp?</p>

<p style="text-align: right;">34</p> <p>1 Q. For workers' comp.</p> <p>2 A. Just that she was unable to work as a</p> <p>3 result of stress, and bad behavior, in particular by</p> <p>4 the City Clerk, at that time.</p> <p>5 Q. And the reason we got to discussing this</p> <p>6 case was that I asked you whether there were any</p> <p>7 cases you handled that had, for whatever reason,</p> <p>8 media coverage. Do you recall what type of media</p> <p>9 coverage that case garnered, from which media?</p> <p>10 A. I honestly don't remember whether or not</p> <p>11 any part of it appeared in the Eagle-Tribune.</p> <p>12 I think it did, but I don't know.</p> <p>13 I do know that there was a subsequent</p> <p>14 article -- and I don't remember if it was by Tom</p> <p>15 Duggan or by Paula Porten -- but there was something</p> <p>16 that appeared in the Valley Patriot.</p> <p>17 Q. And when you refer to the Eagle-Tribune,</p> <p>18 you're referring to the Lawrence Eagle-Tribune?</p> <p>19 A. Yes. Technically they used to be in</p> <p>20 Lawrence, and they moved to North Andover years ago;</p> <p>21 and I think they became the Eagle-Tribune at some</p> <p>22 point.</p> <p>23 MR. DUGGAN: Yes. They took Lawrence</p> <p>24 off the masthead.</p>	<p style="text-align: right;">36</p> <p>1 Andrea Traficanti case prior to August 2008?</p> <p>2 A. I believe that there was, but I don't</p> <p>3 remember the timing of whatever the media coverage</p> <p>4 was.</p> <p>5 Q. And what is your memory as to why there was</p> <p>6 interest in the Andrea Traficanti case?</p> <p>7 A. You're asking me if I know what the media's</p> <p>8 interest was, and for me to say that I would have to</p> <p>9 speculate. I can imagine why it might be of some</p> <p>10 interest to the media, but I don't know why.</p> <p>11 Q. Did you receive any specific inquiries from</p> <p>12 any members of the media about the Andrea Traficanti</p> <p>13 case at the time you began representing the City of</p> <p>14 Lawrence with respect to her workers' compensation</p> <p>15 claim?</p> <p>16 A. At the time I began? I don't recall</p> <p>17 initially. I know that there was some subsequently.</p> <p>18 Q. What was the subject of the inquiries that</p> <p>19 you eventually received about the Andrea Traficanti</p> <p>20 case?</p> <p>21 A. I don't remember which, when. I know that</p> <p>22 Paula Porten asked me about it at some point, and I</p> <p>23 believe that I got at least a phone call from Jill</p> <p>24 Harmacinski. And, no, I can't spell that; but there</p>
<p style="text-align: right;">35</p> <p>1 Q. Were there any other cases, other than the</p> <p>2 Pedallaro case, during the time period prior to 2008</p> <p>3 when you were representing the City of Lawrence on</p> <p>4 workers' compensation claims that garnered media</p> <p>5 attention?</p> <p>6 A. Hard for me to answer, only because there</p> <p>7 may well have been calls from people at the Eagle-</p> <p>8 Tribune about various cases at various points.</p> <p>9 I do not generally discuss cases with</p> <p>10 the media, so there may have been calls and the</p> <p>11 response may have been "No comment" or "I can't</p> <p>12 discuss this with you" or something else.</p> <p>13 But I honestly can't remember which case</p> <p>14 or cases there were.</p> <p>15 Q. Based what you said before, feel free to</p> <p>16 let me know if you can't answer a question, but I'm</p> <p>17 just going to ask you a couple questions about the</p> <p>18 Andrea Traficanti claim.</p> <p>19 A. Can we take a few minutes to run to the</p> <p>20 men's room before we switch gears here?</p> <p>21 Q. Sure.</p> <p>22 (Recess)</p> <p>23 Q. Just to go back on the record, Bill, do you</p> <p>24 remember whether there was any media coverage of the</p>	<p style="text-align: right;">37</p> <p>1 are people who can.</p> <p>2 Q. We have it somewhere.</p> <p>3 A. She's a reporter for the Eagle-Tribune.</p> <p>4 And I don't remember whether or not</p> <p>5 anyone else asked.</p> <p>6 Q. What media was Paula Porten representing,</p> <p>7 to your knowledge, at that time?</p> <p>8 A. To my knowledge, the Valley Patriot.</p> <p>9 Q. And do you recall the subject of her</p> <p>10 inquiry, what she was inquiring about?</p> <p>11 A. A little context, which is that I had known</p> <p>12 Paula for a number of years.</p> <p>13 Paula, to my knowledge, primarily</p> <p>14 represented employees in workers' compensation</p> <p>15 cases.</p> <p>16 As a result, I honestly can't say; but</p> <p>17 I'm assuming that Paula Porten, Attorney Porten,</p> <p>18 must have represented some employee with respect to</p> <p>19 the City of Lawrence at some point, but I had also</p> <p>20 dealt with her with respect to other entities in</p> <p>21 workers' compensation.</p> <p>22 I remember her being involved in some</p> <p>23 cases involving a Malden Mills employee.</p> <p>24 So I knew Paula generally enough to say</p>

<p style="text-align: right;">38</p> <p>1 hi, and you see people at the board. The board is a 2 more congenial place than most. You see the same 3 people over and over again. So I would have bumped 4 into Paula a number of times over the years. 5 Q. You understood that at some point she was 6 working as a reporter as well as a lawyer? 7 A. At some point; and honestly I don't 8 remember exactly when, because I had dealt with her 9 before the Valley Patriot came into existence. '04 10 I think is when the Valley Patriot started. I'm not 11 positive about that. 12 Q. What were your discussions with Ms. Porten 13 about the Traficanti case, if you can recall? 14 A. On one or more occasions, and I don't 15 remember how many, she asked about the Traficanti 16 case; and I would give her a sort of stock 17 equivalent of "No comment." 18 I'm sure I did not use the words "No 19 comment," because I had a more social relationship 20 with her; so I did not deal with her like she was 21 asking me questions and I was standing at a podium. 22 It was a general sort of "I can't talk about this." 23 She would occasionally say things to me 24 that I would neither confirm nor deny. At that</p>	<p style="text-align: right;">40</p> <p>1 this. I have tried to separate out what I actually 2 know from what I think probably happened. 3 I specifically remember having a 4 conversation with Paula because she was really 5 trying to get some information about the Traficanti 6 case, and I remember it only because we were 7 standing outside of the board. 8 This is when it was over at the other 9 address, when it was at its previous location. I 10 remember standing out front and talking to her about 11 it, but what was said specifically I don't know. 12 Q. When was that conversation, do you recall? 13 A. It would have been while the Traficanti 14 case was pending. It would have been from '07 15 through when I stopped doing work on the case in the 16 middle of '08. 17 Q. Do you recall whether, during that 18 conversation you had with her in front of the board, 19 there were any substantive discussions about the 20 Traficanti case? 21 A. When you say substantive, I'm interpreting 22 that, and tell me if I'm incorrect, I'm interpreting 23 that to mean that she would have been sharing with 24 me some information that I didn't know, or that I</p>
<p style="text-align: right;">39</p> <p>1 point, this was not important enough. 2 Other people would be asking questions 3 too, so Paula was just one of a number of people who 4 would asking questions about the case; and I would 5 sort of gently say I can't talk about it. 6 Q. Did you ever have subsequent conversations 7 with Paula Porten about the Traficanti case? 8 A. Like actually reporting information to her? 9 Q. Yes, giving her -- 10 A. No. 11 Q. Do you recall what her inquiries were? 12 A. I'm going to take that back. If she had 13 asked me, for example -- and I don't remember -- 14 well, strike that. 15 I certainly would not have told her 16 anything substantive; and anything that she was 17 aware of, to my knowledge, was either generally 18 known or public-record or something like that. 19 Q. Do you remember what the subject matter of 20 her inquiries was? Was she inquiring about the 21 status of the case, or about the City's position? 22 A. I think she was inquiring more about the 23 status of the case, what was going on. 24 Again, I just want to be clear about</p>	<p style="text-align: right;">41</p> <p>1 would have been sharing with her some information 2 that she didn't know. 3 Q. Yes. 4 A. Is that a fair characterization? 5 Q. Yes. 6 Just to be clear, in any of the 7 discussions you had with Ms. Porten, did you relate 8 to her information other than the fact that you were 9 representing the City of Lawrence in the case, and 10 that the case had a hearing or something? Did you 11 discuss anything more, like strategy, witnesses; 12 anything of that nature? 13 A. Definitely not. Anything that was 14 discussed would have been innocuous. It would have 15 been, "The case is still going on." 16 She might have just asked something 17 about it, and I would have again sort of gently 18 blown her off; because it just wasn't appropriate, 19 in my opinion. 20 Q. Do you remember, from the types of 21 questions she was asking, what information 22 Ms. Porten was seeking from you? 23 A. Being local, she obviously knew a lot about 24 the people that were involved.</p>

<p style="text-align: right;">42</p> <p>1 I'm trying to separate conversations</p> <p>2 with her about Traficanti versus just other things;</p> <p>3 because occasionally she and I would chat about</p> <p>4 other things that were going on in the world that</p> <p>5 had nothing to do with Traficanti, just other</p> <p>6 Lawrence-related things.</p> <p>7 Can you ask that question again?</p> <p>8 Q. Sure. What was the information that</p> <p>9 Ms. Porten was seeking from you regarding the</p> <p>10 Traficanti case? Was it legal strategy; was it case</p> <p>11 status? Was she seeking kind of off-the-record</p> <p>12 behind-the-scenes information; and what if anything</p> <p>13 did you report back to her?</p> <p>14 A. To my memory, nothing ever got past sort of</p> <p>15 the status inquiry; because I wasn't saying anything</p> <p>16 in response.</p> <p>17 Q. Did she relate to you whether she was</p> <p>18 writing or preparing any particular article about</p> <p>19 the Traficanti case?</p> <p>20 A. No.</p> <p>21 Q. Just going back to, I'll call her Jill H.,</p> <p>22 from the Eagle-Tribune, do you recall what she was</p> <p>23 inquiring about on the Traficanti case?</p> <p>24 A. No, again. I have never been terribly</p>	<p style="text-align: right;">44</p> <p>1 I believe that there was some</p> <p>2 conversation afterwards, and I think that it had</p> <p>3 something to do with Paula sharing some information</p> <p>4 with me. I was disinterested in that at that point,</p> <p>5 and actively avoiding it.</p> <p>6 I hate to get into speculation, but I</p> <p>7 believe that Paula told me that Mike Torrisi was</p> <p>8 representing Andrea at this point.</p> <p>9 Q. What I want to just try to nail down is</p> <p>10 that the inquiries from Paula Porten and Jill H.</p> <p>11 from the Eagle-Tribune concerning the Traficanti</p> <p>12 case both occurred prior to the radio broadcast on</p> <p>13 August 23, 2008. Correct?</p> <p>14 A. I'm confident that the ones with Paula</p> <p>15 Porten did.</p> <p>16 I believe that there was a call from the</p> <p>17 Tribune; and I think it was very brief, because as I</p> <p>18 said I just pushed it off. I can't say exactly when</p> <p>19 that was.</p> <p>20 There was subsequent activity in the</p> <p>21 Traficanti case after my involvement. I can't</p> <p>22 remember if that's when I was first contacted by the</p> <p>23 Eagle-Tribune.</p> <p>24 Q. Do you know whether or not there was any</p>
<p style="text-align: right;">43</p> <p>1 communicative with the press, so most conversations</p> <p>2 were the same. They would call up to ask about</p> <p>3 something.</p> <p>4 I understand that they have a job to do,</p> <p>5 and I wasn't begrudging them that; but at the same</p> <p>6 time I never saw any real value in trying my case</p> <p>7 through a non-legal forum.</p> <p>8 So I would sort of blow them off like</p> <p>9 that, which was "Can't talk about it right now."</p> <p>10 Q. I understand that.</p> <p>11 Do you remember what her questions or</p> <p>12 inquiries were trying to elicit, what information</p> <p>13 she was trying to get from you?</p> <p>14 A. No, I really don't.</p> <p>15 Q. These inquiries occurred prior to the radio</p> <p>16 broadcast of August 23, 2008; is that correct?</p> <p>17 A. She may have asked me about it afterwards</p> <p>18 as well.</p> <p>19 This is where I'm trying to be helpful</p> <p>20 and cooperative, and I'm trying to tell the truth;</p> <p>21 but we get into very fuzzy areas. I am trying not</p> <p>22 to do anything that will prejudice the City's</p> <p>23 position with respect to the ongoing Traficanti</p> <p>24 matter.</p>	<p style="text-align: right;">45</p> <p>1 article or broadcast or publication concerning the</p> <p>2 Traficanti case prior to the August 23, 2008 radio</p> <p>3 broadcast?</p> <p>4 A. I don't.</p> <p>5 Q. In your answers recently, you mentioned</p> <p>6 that you essentially stopped doing work on the</p> <p>7 Traficanti case at some point in 2008. Do you</p> <p>8 recall when that was?</p> <p>9 A. Very, very beginning of June 2008.</p> <p>10 Q. And how did that come about? What was the</p> <p>11 reason you stopped performing legal services on the</p> <p>12 Traficanti case?</p> <p>13 A. Again, I'm going to be very wary about</p> <p>14 going any further down this road; but I can tell you</p> <p>15 that my services were terminated by the City at the</p> <p>16 very beginning of June 2008.</p> <p>17 Q. And did they terminate your services</p> <p>18 invoking a provision of the written agreement</p> <p>19 between your firm and the City, or how did that come</p> <p>20 about?</p> <p>21 A. Again, that has to do with communications</p> <p>22 between me and a former and existing client; so</p> <p>23 until we unravel that I think it's better left,</p> <p>24 because eventually we'll deal with it.</p>

<p style="text-align: right;">46</p> <p>1 Q. Let me ask you this, then. Can you tell 2 us, was any reason provided to you by the City of 3 Lawrence for terminating your legal services on the 4 Traficanti case?</p> <p>5 A. I'm going to again decline to answer until 6 we get the privilege issue resolved.</p> <p>7 I can tell you that it wasn't just with 8 respect to the Traficanti case; my services with 9 respect to all workers' compensation was terminated.</p> <p>10 Q. Just to define the issue a little bit -- 11 and this is a yes-or-no answer -- did the City of 12 Lawrence provide a reason as to why it was 13 terminating your legal services in June 2008?</p> <p>14 A. Again, I have to assert the privilege; 15 because that has to do with direct client-attorney 16 communication.</p> <p>17 Q. Right, but I'm just asking for a yes or no. 18 Yes, they did provide an explanation to you; or no, 19 they didn't?</p> <p>20 A. I really can't answer that question. It's 21 more complicated than that.</p> <p>22 Q. Okay. What was the status of the 23 Traficanti case at the time your services were 24 terminated, if you recall?</p>	<p style="text-align: right;">48</p> <p>1 I would be speculating as to exactly why. I have a 2 feeling.</p> <p>3 Q. In July of 2010, when the City of Lawrence 4 engaged you to perform workers' compensation defense 5 for it, what were the general terms of that 6 representation?</p> <p>7 A. Same as they had been when I previously 8 represented them.</p> <p>9 Q. The same terms of compensation?</p> <p>10 A. Correct.</p> <p>11 Q. Are you claiming any loss in this case in 12 connection with the City of Lawrence's termination 13 of its workers' compensation contract with you, and 14 for the income you were out from June of 2008 to 15 approximately July of 2010?</p> <p>16 A. The best I can state at the moment is that 17 discovery is ongoing, because there has been 18 testimony about when certain allegations were made 19 against me, and I am still ferreting out what the 20 reasons for my termination were. That's part of 21 this whole attorney-client issue that we have 22 pending out there.</p> <p>23 Q. Feel free to reserve your rights; but with 24 respect to the radio station and its broadcast that</p>
<p style="text-align: right;">47</p> <p>1 A. It was ongoing.</p> <p>2 Q. You've mentioned that at some point you've 3 resumed doing workers' compensation work for the 4 City of Lawrence.</p> <p>5 A. Correct.</p> <p>6 Q. When was that?</p> <p>7 A. Sometime in 2010. I believe it was July of 8 2010.</p> <p>9 Q. How did that come about?</p> <p>10 A. My office was contacted by the City, and as 11 a result we started representing the City again with 12 respect to workers' compensation.</p> <p>13 Q. And do you have a written contract that 14 governs the legal services you provide to the City 15 of Lawrence?</p> <p>16 A. I do.</p> <p>17 Q. And I take it you've continuously provided 18 legal services for the City of Lawrence with respect 19 to workers' compensation cases from 2010 to the 20 present?</p> <p>21 A. That's correct.</p> <p>22 Q. Do you know approximately when in 2010 you 23 started doing work for the City of Lawrence?</p> <p>24 A. As I said, I believe it was July of 2010.</p>	<p style="text-align: right;">49</p> <p>1 occurred on August 23, 2008 that's at issue in this 2 case, are you seeking any damages from the radio 3 station with respect to the fact that the City of 4 Lawrence did not engage you for its workers' 5 compensation defense between June of 2008 and July 6 of 2010?</p> <p>7 A. Again, discovery is ongoing. Obviously, 8 the radio broadcast occurred after the time that the 9 termination took place.</p> <p>10 I believe that it will be a question for 11 a jury some day as to whether or not the radio 12 station is responsible for actions of any 13 individuals that related to my termination.</p> <p>14 So it may be; but again, I don't know 15 yet.</p> <p>16 Q. At the time of the termination of your 17 legal services by the City of Lawrence in June of 18 2008, who, in terms of an individual, were you 19 communicating with at the City of Lawrence?</p> <p>20 A. I don't know if it was dozens, but it was 21 certainly a large number of people I would 22 communicate with.</p> <p>23 Q. With respect to just the Traficanti case, 24 who were you communicating with?</p>

<p style="text-align: right;">50</p> <p>1 A. Again, I'm very wary of going down this</p> <p>2 road piecemeal, because we're going to have to deal</p> <p>3 with the whole issue at some point. I was dealing</p> <p>4 with a number of different people.</p> <p>5 Q. With respect to the termination of your</p> <p>6 legal services, were there one or more individuals</p> <p>7 at the City of Lawrence that you were dealing with</p> <p>8 in regard to that issue?</p> <p>9 A. I'm not sure I understand your question</p> <p>10 exactly.</p> <p>11 Q. Whom should I talk to or depose at the City</p> <p>12 of Lawrence to determine who was the decision-maker</p> <p>13 for terminating your legal services in June of 2008?</p> <p>14 A. I don't know who was involved in the</p> <p>15 decision. My understanding, not based on anything</p> <p>16 specific other than knowledge of municipal</p> <p>17 government, is that the mayor is the primary</p> <p>18 decision-maker; but whether Mayor Michael Sullivan</p> <p>19 was the decision-maker, or a decision-maker, or</p> <p>20 whatever, I don't know.</p> <p>21 I don't know who made the decision.</p> <p>22 Q. Who is the individual that communicated</p> <p>23 with you regarding the termination?</p> <p>24 A. The original communication came....</p>	<p style="text-align: right;">52</p> <p>1 Q. Just referring to the Paragraph 18 of the</p> <p>2 amended complaint, which has been marked as Exhibit</p> <p>3 1, you say that "Plaintiff's office has served as</p> <p>4 special counsel to the Greater Lawrence Sanitary</p> <p>5 District dealing primarily with litigation matters,</p> <p>6 with the plaintiff solely handling matters since</p> <p>7 approximately 2003." Is that accurate?</p> <p>8 A. Yes. Again, given the timing of when my</p> <p>9 father was or was not involved, I certainly wasn't</p> <p>10 doing it in 1993.</p> <p>11 My dad started representing them, I</p> <p>12 guess, in 1993; and I know that there were ongoing</p> <p>13 reasons for me to occasionally attend meetings, but</p> <p>14 I can't say exactly what and when. I don't think</p> <p>15 that I've been to a meeting since '08.</p> <p>16 Q. Just to understand the type of</p> <p>17 representation you were doing on behalf of Greater</p> <p>18 Lawrence Sanitary District, were you regularly</p> <p>19 attending its meetings in the years prior to 2008?</p> <p>20 A. Yes, but I was not at every meeting. There</p> <p>21 was not a need for me to be at every meeting.</p> <p>22 Depending on what was going on at the</p> <p>23 time, every month for months on end I would go to</p> <p>24 special meetings on occasion; and then there would</p>
<p style="text-align: right;">51</p> <p>1 I'm going to strike that, and I'm going</p> <p>2 to raise the privilege issue again.</p> <p>3 Q. Was the termination communicated to you in</p> <p>4 writing, or was it orally?</p> <p>5 A. Again, I'm certainly not trying to be</p> <p>6 disingenuous. I am trying to be as forthright as I</p> <p>7 can. But as you know, the privilege doesn't belong</p> <p>8 to me; and so I am going to again, given the fact</p> <p>9 that we're going to address this at some point,</p> <p>10 decline to answer that today until the issue is</p> <p>11 addressed.</p> <p>12 Q. That's fine. Let me switch gears for a</p> <p>13 minute.</p> <p>14 During the time period from 2002 to</p> <p>15 2008, you also represented the Greater Lawrence</p> <p>16 Sanitary District; is that correct?</p> <p>17 A. I don't remember the last time that I</p> <p>18 represented them.</p> <p>19 I started representing them shortly</p> <p>20 after I came out with my father in 2000, because</p> <p>21 that's when the initial sort of blow-up was; and</p> <p>22 then I represented them on a number of different</p> <p>23 occasions. I don't remember exactly when that</p> <p>24 stopped. It may not have been in '08.</p>	<p style="text-align: right;">53</p> <p>1 be lags of time when I would not go to meetings.</p> <p>2 Q. And just to back up, my understanding is</p> <p>3 that you represented the Greater Lawrence Sanitary</p> <p>4 District in a case that was ultimately reported by</p> <p>5 the Supreme Judicial Court in 2003 regarding the</p> <p>6 Town of Andover. Do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. Is that accurate?</p> <p>9 A. Yes.</p> <p>10 That was not the only thing that I did</p> <p>11 for the GLSD. As I indicated to you, one of the</p> <p>12 first things I did when I came out to join my father</p> <p>13 was, there was a dispute between the GLSD and</p> <p>14 primarily the Town of North Andover.</p> <p>15 And just two seconds of background,</p> <p>16 since we're going into this?</p> <p>17 Q. Sure.</p> <p>18 A. GLSD is physically located within the Town</p> <p>19 of North Andover. It was sited there in 1968.</p> <p>20 And for those of you who are not</p> <p>21 necessarily aware, GLSD is a sanitary district; and</p> <p>22 it serves Andover, North Andover, Lawrence, Methuen,</p> <p>23 Salem, New Hampshire, and it may have little parts</p> <p>24 of Dracut. I don't know if they ever tied into</p>

<p style="text-align: right;">54</p> <p>1 Middleton; I know there was discussion. But it 2 served basically those five communities. 3 And again, just by way of quick 4 background, GLSD was ordered to upgrade their 5 facilities. They were past the time when this thing 6 was originally built. The waste used to end up in 7 the GLSD; and they would burn it and spew it in the 8 atmosphere. 9 And EPA wasn't too fond of that anymore; 10 so there was, I believe, a consent decree to have 11 them upgrade their facility. There were a lot of 12 negotiations before I got to my father's office in 13 2000 about upgrading the facility. 14 Then in 2000, right around the time that 15 I went out there, the Town of North Andover sort of 16 blew that up, and it resulted in a couple years' 17 worth of litigation. 18 Q. Ultimately, you were the lawyer that argued 19 and presented the case to the Supreme Judicial 20 Court? 21 A. That's correct. 22 Q. Did that case garner any media interest, do 23 you recall? 24 A. Yes. I'm not sure about this, but -- in my</p>	<p style="text-align: right;">56</p> <p>1 This is not a terribly, I don't think, 2 sexy issue. I do believe that there was some story, 3 may have been more than one, in the Trib about this; 4 but I honestly don't remember if my name was 5 mentioned, or it was just as "attorney for." 6 I don't think I ever spoke to anybody 7 about how it ended up. It just sort of eased its 8 way out. 9 Q. With respect to your representation 10 generally of the Greater Lawrence Sanitary District 11 and your attendance at meetings, was there ever 12 media coverage of those meetings that you attended? 13 A. There may have been a reporter at some 14 meeting at some point. I don't recall any. 15 Most of what I would have done in terms 16 of reporting to the board would have been done in 17 executive session, when everybody was excluded 18 anyway. 19 Q. Do you remember at any time prior to August 20 of 2008 whether you fielded any media inquiries 21 about either matters pending before the Greater 22 Lawrence Sanitary District or litigation that the 23 Greater Lawrence Sanitary District had? 24 A. Was there any media inquiry?</p>
<p style="text-align: right;">55</p> <p>1 father's inimitable way -- I remember there being 2 some sort of a quote, and I think it was in the 3 newspaper, about if they don't allow them to build 4 this facility they're going to have to issue 5 Kaopectate to the communities. 6 So I know that there was some sort of 7 media attention, especially initially. Are you're 8 asking about my involvement with the media, as far 9 as this goes? 10 Q. Right. Do you recall whether or not, as a 11 result of your representation in this dispute with 12 the Town of North Andover and the resulting Supreme 13 Judicial Court decision, there were any media 14 publications or broadcasts or other reporting that 15 made their way to the public at large about your 16 representation? 17 A. About my representation? 18 Q. Yes. 19 A. I don't recall. My name may have shown up 20 in some story about it, but the initial salvo was 21 publicized when the Town was working to prevent the 22 GLSD from upgrading its facility. 23 And that's overstating it. That's not 24 exactly what they were doing.</p>	<p style="text-align: right;">57</p> <p>1 Q. To you. 2 A. To me personally? I cannot recall any. 3 There may have been. I may have gotten a phone 4 call, but I honestly can't remember anything 5 substantive. 6 Q. Are you continuing to represent the Greater 7 Lawrence Sanitary District at the present time? 8 A. The best I can tell you is that I have not 9 represented them since the radio broadcast. 10 Q. Did the Greater Lawrence Sanitary District 11 cease using your legal services at some point in 12 time? 13 A. I would say yes. I mean, who knows? They 14 may call tomorrow. But all I can tell you is that I 15 have not done any substantive work for the Greater 16 Lawrence Sanitary District certainly since the radio 17 broadcast. And I don't remember the last time that 18 I billed them for any work; not that that's 19 necessarily the crux of it. 20 I have spoken to members of the GLSD 21 since then. 22 Q. Are you alleging in this case against the 23 radio station or any other defendants any losses or 24 damages in connection with the fact that the Greater</p>

<p style="text-align: right;">58</p> <p>1 Lawrence Sanitary District ceased using your legal 2 services subsequent to the radio broadcast of August 3 23, 2008? 4 A. To the extent that there has been damage to 5 my reputation, yes. 6 Q. Do you have any specific information that 7 the Greater Lawrence Sanitary District ceased using 8 your legal services as a result of the August 23, 9 2008 broadcast? 10 A. Has anyone ever told me that? 11 Q. Yes. 12 A. No. 13 Q. Is there any other information -- indirect, 14 through chatter if you will, or anything of that 15 nature, any document -- that leads you to believe 16 that the reason the Greater Lawrence Sanitary 17 District stopped using your legal services was 18 because of the radio broadcast in this case? 19 A. The Greater Lawrence Sanitary District is a 20 regional board that is comprised of a number of 21 members of the various communities; and I'm not 22 trying to give a lecture, but just to explain what 23 I'm saying. 24 There's one member from Andover, there's</p>	<p style="text-align: right;">60</p> <p>1 they were all very politically aware, and 2 demonstrated to me that they were aware of the local 3 media outlets. 4 For example, one of the employees of the 5 GLSD is Methuen city counsel. 6 Q. I understand. What I'm trying to home in 7 on, though, is, has there been any specific 8 statement, email, or allusion made in passing by one 9 of these board members that leads you to believe 10 that the radio broadcast was the reason for the 11 cessation of the use of your legal services by the 12 Greater Lawrence Sanitary District? 13 A. No one has ever come to me and said, "We 14 will no longer hire you because of what was said 15 about you"; but that nobody would say that doesn't 16 really surprise me, that nobody would come out and 17 explain it. Nobody has said anything one way or the 18 other. 19 Q. Did you have a specific written contract 20 with the Greater Lawrence Sanitary District? 21 A. No. 22 Q. How did you charge for your services for 23 the work you did? 24 A. Actually, there were two ways. One,</p>
<p style="text-align: right;">59</p> <p>1 one member from North Andover, there are three 2 members from Lawrence, and there are two members 3 from Methuen, and then a non-voting member from 4 Salem. 5 All of the individuals who sat on the 6 board during my tenure were, I would say, informed 7 and politically aware. 8 For example, I don't know if he is still 9 in this position, but I believe that when I left, 10 the chairman of the board of commissioners was a 11 gentleman named Tom Connors. 12 Mr. Connors is a local businessman, and 13 also, I don't know if he still writes, but wrote for 14 a number of years monthly articles for the Valley 15 Patriot; so I was certainly aware that he was aware 16 of the Valley Patriot. 17 The other individuals who sat on the 18 board, I can't say they were all intimately aware of 19 the Valley Patriot; but I believe they were all 20 aware of the Valley Patriot, because they were all 21 aware of local activities and things that were 22 ongoing. 23 In my conversations with them about 24 various what's-going-on-in-the-world kind of stuff,</p>	<p style="text-align: right;">61</p> <p>1 generally speaking, by the hour; I just billed them, 2 like other clients. 3 At some point I know that there was an 4 agreement where I think we represented them for 5 something for a flat fee. 6 Q. Is it correct that in the year prior to 7 August 23, 2008 you did bill the Greater Lawrence 8 Sanitary District over \$100,000 for legal services? 9 A. I don't remember what amounts in what 10 years, and I did not go back to familiarize myself 11 with it. I know the bills have been published, so I 12 know that they're out there in the world. 13 MR. DICKISON: This was an exhibit that 14 we've marked. 15 Will you mark that? 16 (Marked, Exhibit 2, article, The Valley 17 Patriot, November 2008.) 18 Q. Let me show you what's been marked as 19 Exhibit 2. I believe this was marked as Exhibit 2 20 at somebody else's deposition. If you look, this is 21 an article from the Valley Patriot published 22 apparently November 2008. 23 If you look at the third page, there's a 24 graphic that's entitled Greater Lawrence Sanitary</p>

<p style="text-align: right;">62</p> <p>1 District Payments to the DiAdamo Law Office, and 2 then it has some figures next to it. 3 It's a little difficult to read, but do 4 you know whether or not that document that's 5 featured in this Valley Patriot article is an 6 accurate, authentic document from the Greater 7 Lawrence Sanitary District? 8 A. Do I know? I do not. 9 I don't have any reason to doubt that 10 the document that's entitled Greater Lawrence 11 Sanitary District was not from the district. I find 12 them to be very capable and organized. 13 Q. Do you agree with the assertion in this 14 article by the Valley Patriot that in 2006 the 15 DiAdamo Law Office was paid \$108,733 for legal 16 services? 17 A. Can you tell me where that is? 18 Q. Yes. On Page 2, that third column over, 19 about three paragraphs down. 20 A. I did look at this at one point, but it was 21 several years ago. 22 And all I'm doing is looking at this 23 document here; and all I can do is interpret the 24 document for you, because I don't have an</p>	<p style="text-align: right;">64</p> <p>1 to the DiAdamo Law Office are more legible now for 2 the time period of November 23, 2006 through October 3 26, 2007? 4 My question is, do you have any reason 5 to dispute the fact that the reflected amount of 6 payments made by the Greater Lawrence Sanitary 7 District to the DiAdamo Law Office is what's 8 contained in Exhibit 3? 9 A. I have no reason to dispute that. I just 10 don't know one way or the other. 11 As I said, I would always have pegged 12 the GLSD as very good with their bookkeeping, but I 13 have not compared it to my records. But I have no 14 reason to doubt that they produced whatever they 15 were asked to produce. 16 Q. So you'd agree with me that it seems right, 17 based on your memory and knowledge of the legal work 18 and services your office performed between November 19 2006 and October 2007 for the Greater Lawrence 20 Sanitary District, that you received payments in the 21 amount of approximately \$108,733? 22 A. Here's what I'm questioning. Reading from 23 the article, it says, "Documents from the GLSD, 24 however, show payments of \$47,731 paid to DiAdamo</p>
<p style="text-align: right;">63</p> <p>1 independent memory of amounts. 2 It says that "Documents also show in 3 2006 the DiAdamo Law Office made \$108,733 for legal 4 services." 5 I can't read the numbers on the right- 6 hand side. The only thing I can read is where 7 there's a separate something that shows bank ID, 8 check dates, amounts and status. 9 Can we go off the record for one second? 10 Q. Before we go off the record, I want to put 11 on the record exactly what you're looking at. 12 You are looking at a document that's 13 Page 3 of Exhibit 2 that's essentially entitled at 14 the upper left-hand corner Greater Lawrence Sanitary 15 District Payments to the DiAdamo Law Office. 16 A. Correct. 17 MR. DICKISON: Let's go off the record. 18 (Recess) 19 (Marked, Exhibit 3, enlarged page from 20 Exhibit 2.) 21 Q. During the break, we had Exhibit 3 marked, 22 which is a blow-up of that page from Exhibit 2. 23 Do you see on the top part of this that 24 the payments from Greater Lawrence Sanitary District</p>	<p style="text-align: right;">65</p> <p>1 Law Office in 2007." 2 First of all, I'm not sure it's a major 3 distinction -- but it's not insignificant, either -- 4 that the payments were shown made to Carmine 5 DiAdamo, Esquire. 6 And in 2007 it says -- let's see. That 7 could be \$47,000, looking at the numbers on the 8 right of Exhibit No. 3. Doing the math in my head, 9 it looks about right for those three checks. 10 And then it says that the DiAdamo Law 11 Office was paid \$108,000 in 2006. 12 The only thing I'm questioning is that 13 there are two different kinds of numbers here. 14 There's a column over on the left-hand 15 side that has a breakdown of payments, and then 16 there's a different printout on the right-hand side 17 of Exhibit No. 3. I'm assuming those came from the 18 GLSD, but I can't be 100 percent sure. I don't have 19 a great reason to doubt them. 20 Q. Let me just ask you this question. 21 First of all, with respect to these 22 checks being made out to Carmine DiAdamo, did your 23 father, Carmine DiAdamo, perform services for the 24 Greater Lawrence Sanitary District during this time</p>

<p style="text-align: right;">66</p> <p>1 period?</p> <p>2 A. Which time period?</p> <p>3 Q. 2006 to 2007.</p> <p>4 A. Probably not, no.</p> <p>5 Q. So any legal work that would have been</p> <p>6 billed or paid to Carmine DiAdamo likely would have</p> <p>7 been work that in fact was done by you?</p> <p>8 A. That's correct.</p> <p>9 Q. And can you just tell us generally, to the</p> <p>10 extent you already haven't, what types of legal</p> <p>11 services you were performing during this time period</p> <p>12 of November 2006 through October 2007 for the</p> <p>13 Greater Lawrence Sanitary District?</p> <p>14 A. I'm assuming that the lawsuit with the Town</p> <p>15 of North Andover by that time was substantially</p> <p>16 over, although there were some lingering issues here</p> <p>17 and there.</p> <p>18 The two primary things I was working on</p> <p>19 during this time period, I believe, were that the</p> <p>20 Department of Justice had filed a lawsuit against</p> <p>21 the GLSD.</p> <p>22 I'm really paraphrasing this matter with</p> <p>23 the Department of Justice. The complaint was</p> <p>24 however long it was, but essentially it was failure</p>	<p style="text-align: right;">68</p> <p>1 so I was involved in that to some degree, too; but</p> <p>2 the majority of that is probably the Department of</p> <p>3 Justice stuff.</p> <p>4 Q. You understand, referring back to Exhibit</p> <p>5 1, the amended complaint, that you've made a claim</p> <p>6 about the fact that the radio broadcast aired</p> <p>7 statements concerning your legal work for the</p> <p>8 Greater Lawrence Sanitary District; right?</p> <p>9 A. Correct.</p> <p>10 Q. And your specific claim is that it was</p> <p>11 defamatory with respect to the fact that it was</p> <p>12 broadcast that you made \$100,000 a year as special</p> <p>13 counsel to the Greater Lawrence Sanitary District;</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. Now, you'd agree with me that, in general,</p> <p>17 at that point in time, in August of 2008, it was</p> <p>18 substantially true that you did make over \$100,000</p> <p>19 in legal services from the Greater Lawrence Sanitary</p> <p>20 District on an annual basis?</p> <p>21 A. I would disagree with that.</p> <p>22 Q. Why would you disagree with that statement?</p> <p>23 A. Well, because you have bills here from '01</p> <p>24 to 2008, and they do not show me making \$100,000 a</p>
<p style="text-align: right;">67</p> <p>1 to comply with a consent decree.</p> <p>2 And so I negotiated with EPA, DEP and</p> <p>3 DOJ -- sorry; too many acronyms -- and came up with</p> <p>4 a new consent decree, which is essentially a</p> <p>5 settlement agreement about what the GLSD was going</p> <p>6 to do.</p> <p>7 And just to back that up a little bit</p> <p>8 further, the Clean Water Act mandates degrees of</p> <p>9 cleanliness; and the substantial problem was that</p> <p>10 GLSD was not doing enough for EPA and DEP with</p> <p>11 respect to water cleanliness, in terms of upgrading</p> <p>12 their facility. So we negotiated.</p> <p>13 We came up with a very elaborate consent</p> <p>14 decree which was subsequently filed and which, to my</p> <p>15 knowledge -- because I have not been involved with</p> <p>16 the GLSD over the subsequent years -- was complied</p> <p>17 with by GLSD. So that was one thing.</p> <p>18 And the other thing was, GLSD upgraded</p> <p>19 its facility from the old incinerator style to a new</p> <p>20 facility where they would treat a lot of the waste.</p> <p>21 They were also turning some of it into fertilizer,</p> <p>22 making it useful.</p> <p>23 And there were some issues with the</p> <p>24 performance of some of the components of that, and</p>	<p style="text-align: right;">69</p> <p>1 year for that period of time; number one.</p> <p>2 And number two, they certainly don't</p> <p>3 show it from going to a meeting every two months.</p> <p>4 Q. Setting aside the statement about whether</p> <p>5 you earned \$100,000 from the Greater Lawrence</p> <p>6 Sanitary District just for attending meetings, and</p> <p>7 focusing only on the amount of compensation that you</p> <p>8 or your law firm earned in the year prior to the</p> <p>9 August 23, 2008 broadcast, would you not agree with</p> <p>10 me that your firm did earn approximately \$100,000 as</p> <p>11 special counsel to the Greater Lawrence Sanitary</p> <p>12 District in the year prior to the August 2008</p> <p>13 broadcast?</p> <p>14 A. I would disagree with that. Let's be</p> <p>15 clear.</p> <p>16 The broadcast played in 2008; and at</p> <p>17 least according to the documents that have been</p> <p>18 produced, whose validity I can't vouch for, but</p> <p>19 assuming them to be valid, I was paid \$47,000 and</p> <p>20 change in 2007.</p> <p>21 Q. Let me ask you this. Setting aside the</p> <p>22 documents that we've shown you at your deposition</p> <p>23 today, do you have documents that reflect the amount</p> <p>24 of payments you received from the Greater Lawrence</p>

<p style="text-align: right;">70</p> <p>1 Sanitary District in the years prior to August 23, 2 2008?</p> <p>3 A. I would imagine I do, yes.</p> <p>4 Q. And have you made any inquiry and review of 5 your documents as to exactly how much you earned in 6 the year preceding August 23, 2008?</p> <p>7 A. I did at some point, yes.</p> <p>8 Q. Do you know approximately how much you 9 earned from the Greater Lawrence Sanitary District 10 in the year prior to August 23, 2008?</p> <p>11 A. So if I understand your question, you're 12 asking from approximately August 2007 to August of 13 2008?</p> <p>14 Q. Yes.</p> <p>15 A. I have not made an inquiry. I'm sure I 16 looked at it at some point; I don't remember what 17 the numbers were.</p> <p>18 Q. If we needed that information to figure out 19 how much you earned from the Greater Lawrence 20 Sanitary District in 2008 or for the one-year period 21 preceding August 23, 2008, how would you go about 22 getting that information?</p> <p>23 A. I would go back and look at my records, 24 although I will say I have no reason to believe that</p>	<p style="text-align: right;">72</p> <p>1 bearing on attorney-client issues?</p> <p>2 Q. Right. Well, we certainly want just the 3 pure billing numbers; the amounts, the actual 4 checks, that your firm received during 2008, 2007.</p> <p>5 But at some point -- and I'll ask a few 6 more questions -- we may need some other 7 documentation or testimony about the precise nature 8 of the legal services that were being performed. 9 That may be an issue.</p> <p>10 A. I assume what you're saying is that we'll 11 leave it for another time.</p> <p>12 Q. Let me just ask you this. If I can refer 13 you to Exhibit 1, Page 5 of this, you understand 14 that the amended complaint has a transcript of the 15 August 23, 2008 radio broadcast; right?</p> <p>16 A. Of course.</p> <p>17 Q. And on Pages 4 to 6 there is a transcript 18 of the broadcast?</p> <p>19 A. Correct.</p> <p>20 Q. On Page 5 of the amended complaint, there 21 are a couple of statements referring to your work 22 for the Greater Lawrence Sanitary District; right?</p> <p>23 A. Correct.</p> <p>24 Q. If you look at the third paragraph, there</p>
<p style="text-align: right;">71</p> <p>1 these numbers are incorrect.</p> <p>2 And, I don't know this, but if you're 3 asking simply whether from August of 2007 to August 4 of 2008 I made somewhere in the neighborhood of 5 \$48,000, it wouldn't surprise me if that's what the 6 number showed.</p> <p>7 Q. You would agree with me that you haven't 8 actually produced any of the receipts or billing 9 statements with respect to Greater Lawrence Sanitary 10 District and the legal services you performed in 11 2008 or 2007; right?</p> <p>12 A. I believe that I've responded to one or 13 more requests for production of documents indicating 14 that those documents are available for review and 15 for copying as necessary. I don't believe that I've 16 copied them and sent them.</p> <p>17 Q. Well, let's just do this on the record. At 18 some point we're going to need those documents, to 19 look at them. Will you agree to produce them at a 20 convenient time so we can look at those?</p> <p>21 A. Sure.</p> <p>22 Let me just be clear about that, too.</p> <p>23 You're asking, as I understand it, for the numbers; 24 not in terms of what I did, which may have some</p>	<p style="text-align: right;">73</p> <p>1 is a statement in the middle of that paragraph that 2 begins, "What does he do?"</p> <p>3 "And lo and behold, I get some 4 information that Attorney DiAdamo is making 100K a 5 year as the special counsel for the Greater Lawrence 6 Sanitary District."</p> <p>7 Now, is it your testimony that that 8 statement is not accurate?</p> <p>9 A. Correct.</p> <p>10 Q. Is it your testimony that that statement is 11 not accurate because as of the time in August of 12 2008 that the statement was made, you were not 13 making \$100,000 a year as special counsel for the 14 Greater Lawrence Sanitary District, but some amount 15 significantly lower?</p> <p>16 A. It's my contention that the statement is 17 incorrect for a number of reasons.</p> <p>18 That statement suggests that I was 19 making \$100,000 a year, or Attorney DiAdamo was 20 making \$100,000 a year, which suggests over some 21 period of time; and that is incorrect. I may have 22 made \$100,000 in some given year; and to be even 23 more clear, I or my firm may have been paid \$100,000 24 in some given year.</p>

<p style="text-align: right;">74</p> <p>1 That does not necessarily jibe even with</p> <p>2 what legal work was performed; because some of this</p> <p>3 money was billed for work that may have been done in</p> <p>4 another calendar or budgetary year.</p> <p>5 The sentence also has to be read in</p> <p>6 conjunction with everything else in this broadcast.</p> <p>7 Q. Let me ask you this. Do you know whether</p> <p>8 or not Jocko Ford was also the counsel for the</p> <p>9 Greater Lawrence Sanitary District at that time?</p> <p>10 A. I believe that he was the general counsel.</p> <p>11 I believe he has been since dinosaurs roamed the</p> <p>12 Earth, possibly. A long time. Jocko has been there</p> <p>13 forever.</p> <p>14 Q. Let me ask you just a few more questions</p> <p>15 about Greater Lawrence Sanitary District. Have you</p> <p>16 ever approached them about waiving the attorney-</p> <p>17 client privilege in this case?</p> <p>18 A. I have spoken to them. I don't believe....</p> <p>19 Strike that.</p> <p>20 I am simply debating whether or not I</p> <p>21 can properly answer that question given the</p> <p>22 attorney-client privilege.</p> <p>23 I can say that I have met with the board</p> <p>24 since this broadcast was made.</p>	<p style="text-align: right;">76</p> <p>1 The DOJ stuff you could probably pull</p> <p>2 off line. So those aren't exactly state secrets.</p> <p>3 Q. Well, what is at issue in this case is that</p> <p>4 there is a statement made during the broadcast, "And</p> <p>5 on top of that, he's pulling down \$100,000 a year to</p> <p>6 show up at one meeting every two months at the</p> <p>7 Greater Lawrence Sanitary District."</p> <p>8 You understand that that statement was</p> <p>9 made during the broadcast; right?</p> <p>10 A. I do.</p> <p>11 Q. And it's your contention that that</p> <p>12 statement is not true; right?</p> <p>13 A. That is correct.</p> <p>14 Q. You would agree with me, though, that</p> <p>15 during this time period prior to the broadcast you</p> <p>16 were actually working as special counsel for the</p> <p>17 Greater Lawrence Sanitary District; correct?</p> <p>18 A. Just to be clear, I have a relationship</p> <p>19 with them, and by definition that relationship is</p> <p>20 ongoing; because I have duties and obligations to</p> <p>21 them that probably last forever.</p> <p>22 I don't recall that there was anything</p> <p>23 in particular that I was doing at that time in</p> <p>24 August of 2008.</p>
<p style="text-align: right;">75</p> <p>1 Q. And, just yes or no: Have you ever asked</p> <p>2 the Greater Lawrence Sanitary District to waive</p> <p>3 their attorney-client privilege with respect to the</p> <p>4 claims that are at issue in this case concerning the</p> <p>5 work that you've performed for them, and the amount</p> <p>6 of payment that you've received from them?</p> <p>7 A. I don't think I can answer that question,</p> <p>8 because of the potential issues with the privilege.</p> <p>9 I'm not sure if you're asking me, or</p> <p>10 have asked me, anything that is within the</p> <p>11 privilege.</p> <p>12 Q. At this point I'm just asking you whether</p> <p>13 or not you have approached the GLSD and requested</p> <p>14 that they waive their attorney-client privilege in</p> <p>15 order to enable you to talk freely about the claims</p> <p>16 that are at issue in this case.</p> <p>17 A. I don't know what questions may arise. And</p> <p>18 this is just from me: I don't know what questions</p> <p>19 you may ask me that may impinge on the attorney-</p> <p>20 client privilege.</p> <p>21 As I said, at least with respect to one</p> <p>22 of these cases there's an SJC opinion; that's pretty</p> <p>23 much self-evident. You can find out what went on by</p> <p>24 reading the docket there.</p>	<p style="text-align: right;">77</p> <p>1 Q. But do you recall whether or not you</p> <p>2 received any compensation for legal services from</p> <p>3 the Greater Lawrence Sanitary District in 2008?</p> <p>4 A. I don't recall. I don't believe that I</p> <p>5 did, but I don't recall.</p> <p>6 Q. All right; let's focus in on 2007.</p> <p>7 Do you believe you received some</p> <p>8 compensation from the Greater Lawrence Sanitary</p> <p>9 District for legal services in 2007?</p> <p>10 A. Yes, and that's reflected in the things</p> <p>11 you've produced.</p> <p>12 Q. And for the payments made by the Greater</p> <p>13 Lawrence Sanitary District to you or your office in</p> <p>14 2007, do you recall specifically what legal work or</p> <p>15 services were provided to them?</p> <p>16 A. As I said, I don't recall specifically; but</p> <p>17 it is likely -- unless I've forgotten something,</p> <p>18 which is possible -- that it had to do, one, with</p> <p>19 the Department of Justice matter.</p> <p>20 I can tell you, without talking</p> <p>21 specifically about the bills, that the three primary</p> <p>22 things that I worked on over that period of time</p> <p>23 were the lawsuit with North Andover, the Department</p> <p>24 of Justice thing; and then there were a number of</p>

<p style="text-align: right;">78</p> <p>1 construction-related issues, including the one I 2 referred to earlier, where various things were and 3 were not an issue, and it could be very collateral 4 stuff. 5 For example -- again, I don't think any 6 of this stuff is attorney-client, because it's out 7 there in the world -- there were issues with, during 8 the time period that they were renovating the 9 facility and even afterwards, that they were 10 transporting waste from North Andover to various 11 places; Maine, for example. 12 And like anything else, legal issues 13 would come up, so there would be ad-hoc stuff that 14 was tangentially related, and I would have input on 15 that. 16 Q. And I appreciate your attempt to recall 17 exactly what you were doing. 18 At some point, if we want to look at the 19 actual documents and try to nail down what 20 specifically you were doing, to get to the issue of 21 whether you were receiving payments for legal 22 services for more than just attending meetings 23 during this time period, you'd agree with me that 24 the documents showing the actual legal work being</p>	<p style="text-align: right;">80</p> <p>1 the amount of time and the nature of the services 2 you were doing for the Greater Lawrence Sanitary 3 District? 4 A. Same answer, which is that I would have to 5 review them and contact the district to discuss 6 that. 7 Q. Well, to the extent we already haven't 8 requested those, we would want those documents. 9 Would you agree to produce those? 10 A. Again, I can't agree to anything without 11 talking to the GLSD. 12 As I've said to you earlier, I do 13 believe that you have the punch line in these 14 documents. 15 Q. Just so we're clear, when you're talking 16 about the punch line, you're talking about Exhibit 3 17 and Exhibit 2? 18 A. Exhibit 2 and Exhibit 3 I believe 19 accurately reflect what my office was paid over that 20 seven- or eight-year period. 21 I can't vouch for it right now; it's 22 something that I could confirm. I just didn't do so 23 for today. I did look at them at some point when 24 they were initially published.</p>
<p style="text-align: right;">79</p> <p>1 performed would be subject to the attorney-client 2 privilege between you and the Greater Lawrence 3 Sanitary District; correct? 4 A. They might be. I mean, it's something that 5 I would ask the district. I would be uncomfortable 6 producing them without talking to the district. I 7 don't know one way or the other about whether there 8 would be an issue. 9 Q. Do you know whether you do still actually 10 have the documents or the files that show what type 11 of legal work, and the extent of legal work, that 12 you were doing for the Greater Lawrence Sanitary 13 District back in 2008? 14 A. Again, I can't remember the last time I saw 15 them. Probably when they were produced six years 16 ago; five, six years ago, whatever it is. I would 17 imagine that I have them, but I don't know. 18 Q. And do you keep time records as to the 19 amount of time that you spent on any matters related 20 to the Greater Lawrence Sanitary District in 2008 21 and 2007? 22 A. Yes. 23 Q. Would those time records be available for 24 production to us in this case, so that we can review</p>	<p style="text-align: right;">81</p> <p>1 To the extent you're looking for 2 something beyond the blank numbers that are here, I 3 of course would just want to clarify with my client. 4 What I can tell you, of course, is that 5 I generally was working on what's out there in the 6 world. 7 Q. I understand that. 8 If we, in preparing for the trial in 9 this case, wanted to see exactly what legal work you 10 specifically performed for the Greater Lawrence 11 Sanitary District in 2008 and how much was billed to 12 them, you have possession of those time records in 13 the files in your office, likely; correct? 14 A. If you'd like me to do that, I'm happy to 15 contact the GLSD and have a discussion with them. 16 So I will do that. 17 Q. With respect to the time period you were 18 performing legal services for the Greater Lawrence 19 Sanitary District in 2008, who were the individuals 20 that you reported to and communicated with regarding 21 legal services and payment of your services? 22 A. I'm sorry, what time frame? 23 Q. The year or so preceding August 23, 2008. 24 A. The board has changed a little bit over the</p>

<p style="text-align: right;">82</p> <p>1 years, and I don't remember who exactly was sitting 2 on the board during that time period. 3 Suffice it to say that I would have been 4 reporting to the board, and I also would have been 5 dealing with the executive director as well as 6 other people. Again, I got along very well with 7 them; they're very nice people over there. 8 So there are a number of people that I 9 would talk to on a regular basis. 10 Q. And who would be the individuals that would 11 be able to vouch for the amount of legal payments 12 that were made to your law office during 2008 and 13 2007? 14 A. The executive director during that time 15 period was Rick Hogan; and I think Rick is still 16 there, although I think he is retiring. If he 17 hasn't already, it's imminent. I just heard that, 18 and I don't remember where. 19 The financial person, I don't know that 20 she's in charge, but there's a woman named Ann 21 Rader. 22 And then the members of the board during 23 that time period, again, are a matter of public 24 record. I think sitting on the board at that time,</p>	<p style="text-align: right;">84</p> <p>1 Q. And you or your offices represented Mayor 2 Lantigua of the City of Lawrence; correct? 3 A. During that time period? 4 Q. No, more recently. 5 A. More recently, yes. 6 Q. Focusing on the time period of 2000 to 7 2008, can you tell us the public officials that you 8 have represented, either in actual cases or in 9 personal representation, for any reason? 10 A. I represented Maurice LaRiviere. 11 I think he was terminated officially 12 before we represented him. I don't remember exactly 13 the time frame, because I know that it all happened 14 very quickly. 15 So I believe he was terminated. In 16 fact, now that I think about it a little bit, I'm 17 sure that that's the case. 18 Q. Understanding that he might have been, by 19 the time he got to your office, the ex-city 20 solicitor. 21 A. Correct. 22 Q. I'm just looking for you to tell us, in 23 this time period of 2000 to 2008, the public 24 officials or ex-public officials that your office</p>
<p style="text-align: right;">83</p> <p>1 in 2007 and 2008 -- well, it's whoever was sitting 2 on the board at that time. I can tell you who I 3 think was sitting on the board, but that's a matter 4 of -- 5 Q. Would that information be somewhere in any 6 of the files that you might have kept? 7 A. Yes. It's probably something you could 8 pull off line in 35 seconds. 9 Q. Let me switch gears for a moment. 10 During the time period of 2000 to 2008, 11 when you were practicing with your father in the 12 City of Lawrence, you also had represented a number 13 of public officials in the Lawrence or Methuen area; 14 isn't that correct? 15 A. A number of public officials? I'm not sure 16 what you're getting at. 17 Q. Well, for instance, you represented the 18 Methuen ex-city solicitor, Maurice LaRiviere. 19 A. For what it's worth, it's always pronounced 20 "MOR-ris." "Mor-REES" would be the way I would 21 pronounce it, but I believe he pronounces it 22 "MOR-ris La-Riv-YAIR." 23 Q. Is that correct? 24 A. That is correct.</p>	<p style="text-align: right;">85</p> <p>1 represented with regard to legal matters at that 2 time. 3 A. And I can only speak for myself, because I 4 was not always aware of everything that my father 5 was doing during that time period. 6 Q. Sure. 7 A. The reason I'm trying to think this through 8 is that, for example, during that time period, I 9 represented the City with respect to the Workforce 10 Investment Board. That is a political hodgepodge, 11 where I had a lot of dealings, very tangentially, 12 but with a lot of public officials. 13 I didn't necessarily represent those 14 officials per se, but they were involved in this 15 entity which I was involved with. I can be more 16 specific about that. 17 Q. Just tell me about that. During this time 18 period of 2000 to 2008, what was this entity that 19 you represented? You represented the City of 20 Lawrence? 21 A. Well, here's what happened. Are you 22 familiar with workforce investment boards at all? 23 Q. No; and I don't need to know all the 24 details. I'm interested in having you describe in</p>

<p style="text-align: right;">86</p> <p>1 general the public officials or ex-public officials 2 that you represented from 2000 to 2008. 3 I was going to have a subsequent 4 question; which was, what other agencies or 5 municipalities have you represented that we haven't 6 already talked about in terms of the City of 7 Lawrence. 8 I'm interested in just a list of the 9 public entities and public officials that you 10 represented during this time period prior to the 11 radio broadcast. 12 A. Okay; I'm sorry, but I'm going to take 13 another ten-second break, and it's probably easier 14 if I globalize it for you. 15 (Recess) 16 MR. DICKISON: Let's go back on the 17 record. 18 A. Again, I'm not trying to make these legal 19 lectures, but just trying to give some context to 20 what's going on. 21 Workforce investment boards are these 22 federally created things that are a public-private 23 partnership. 24 Again, I'm really streamlining, because</p>	<p style="text-align: right;">88</p> <p>1 think it was probably my father -- my original 2 involvement was that the workforce investment board 3 was looking to put together some bylaws and to 4 obtain a 501(c)(3) designation. 5 In addition to just working with these 6 various career centers, they also were involved in 7 obtaining grants and things like that. 8 Q. Just to stop you there, is this with 9 respect to the City of Lawrence or some other 10 municipality, or -- 11 A. The career center itself was located within 12 the City of Lawrence, and the City of Lawrence was 13 the designated grant recipient. 14 Again, the way these things work, 15 without getting too far down the rabbit hole, is 16 that the federal and state governments would funnel 17 money into certain areas, and they would funnel it 18 through certain entities, in this case Lawrence; and 19 so Lawrence would be the entity that was ultimately 20 responsible for the spending of the money, but 21 really they were a pass-through. 22 The career centers would essentially 23 spend the money on these WIBs -- again, this is a 24 wild generalization -- and the WIBs would say, this</p>
<p style="text-align: right;">87</p> <p>1 like every other federal regulation it is very large 2 and very complicated; but essentially workforce 3 investment boards are these public-private groups 4 that are supposed to look at career centers and tell 5 them what it is that they want, meaning, if the 6 career center is training manufacturers of buggy 7 whips, that's not really helpful to the community at 8 large. 9 So the federal government said, you know 10 what would be a good idea? We'll put together these 11 big groups and have them look at the career centers. 12 These big groups are made up of not only 13 local governments but also ideally good-sized 14 private employers who say, no, what we really need 15 is visiting nurses, or we need microchip cleaners, 16 whatever it happens to be. 17 And they will get together and they will 18 have these meetings; and they'll look at the 19 workforce boards and the career centers and say, if 20 you churn out these kinds of people, these are what 21 we think the economy needs. So a little civics 22 lesson. 23 Q. Okay. 24 A. Originally -- I don't think it was me, I</p>	<p style="text-align: right;">89</p> <p>1 is how we want you to spend the money; this is what 2 you should be training. 3 So Lawrence initially was more of a 4 pass-through; and again, because this is complicated 5 by attorney-client issues, there were problems with 6 the WIB and their relationship with the career 7 center, and it became very messy. 8 At some point, Mayor Sullivan actually 9 essentially disbanded the WIB and reformed it; so 10 took it apart and rebuilt it to make it so it was no 11 longer messy. 12 Q. And who were you representing during this 13 time period? 14 A. All of this entities are interrelated, and 15 that's why I'm having trouble answering your larger 16 question. 17 The WIB itself is made up of, for 18 example, most of the towns in a designated area; and 19 a good portion of Essex County had some 20 representation on the WIB. 21 For example, when you were notifying WIB 22 members of things, you had a clerk from Newburyport, 23 you had people from Methuen, people from all over 24 Haverhill; all over that area. All of those people</p>

<p style="text-align: right;">90</p> <p>1 were involved in the WIB to some degree, so I would</p> <p>2 have had some interaction.</p> <p>3 Did I represent any of them personally?</p> <p>4 No. But just in terms of trying to really answer</p> <p>5 your question, there would have been some</p> <p>6 interaction with a wide variety of people over the</p> <p>7 issues that were involved.</p> <p>8 Q. Was there any public reporting in the media</p> <p>9 about this workforce investment board?</p> <p>10 A. There might have been. I don't recall any,</p> <p>11 but there may well have been.</p> <p>12 Q. Do you remember, just setting aside the</p> <p>13 workforce investment board, were there any</p> <p>14 particular public officials or former public</p> <p>15 officials that you ended up representing in</p> <p>16 connection with the workforce investment board?</p> <p>17 A. Are you talking about public officials in</p> <p>18 their public capacity, or --</p> <p>19 Q. Any public official that you represented</p> <p>20 prior to 2008.</p> <p>21 A. I would not have been representing any</p> <p>22 particular public official, that I can recall.</p> <p>23 I would have been representing entities</p> <p>24 that may have public officials affiliated with them.</p>	<p style="text-align: right;">92</p> <p>1 ex-public officials did you represent prior to</p> <p>2 August 23, 2008?</p> <p>3 A. Putting aside the general representation in</p> <p>4 the workforce investment board things, I represented</p> <p>5 Maurice LaRiviere after he was terminated.</p> <p>6 I represented the Greater Lawrence</p> <p>7 Sanitary District. At the moment I can't think of</p> <p>8 anyone else.</p> <p>9 Q. Did you ever represent any police officers</p> <p>10 of the City of Lawrence, or school committee members</p> <p>11 or city councilors, anybody who held elected office</p> <p>12 prior to 2008, or who would be considered a public</p> <p>13 employee?</p> <p>14 A. I understand the difficulty that I think</p> <p>15 both of us are having.</p> <p>16 For example, when I'm doing any work for</p> <p>17 the City of Lawrence, by definition the City of</p> <p>18 Lawrence is comprised of not only the mayor but also</p> <p>19 the city council.</p> <p>20 So am I doing work for them? In the</p> <p>21 broadest sense, yes. If you're asking, did I</p> <p>22 represent this individual?</p> <p>23 Q. Right.</p> <p>24 A. I can't think of anybody else. I think</p>
<p style="text-align: right;">91</p> <p>1 For example, in the City of Lawrence, the decision-</p> <p>2 maker at that time was Michael Sullivan; so I would</p> <p>3 have been representing the City, but the City is not</p> <p>4 a thing that makes decisions per se. It has people</p> <p>5 that make decisions on its behalf.</p> <p>6 I'm being sort of coy here, but the</p> <p>7 distinctions can be important.</p> <p>8 Q. So did you represent Mayor Sullivan?</p> <p>9 A. Again, the pause is because of attorney-</p> <p>10 client issues.</p> <p>11 Q. Respectfully, all my question is is, prior</p> <p>12 to 2008, did you or did you not represent Mayor</p> <p>13 Sullivan in any matter? I don't think that's</p> <p>14 attorney-client-privileged.</p> <p>15 A. No, it's not. What I can say is that the</p> <p>16 issues especially with respect to the WIB would have</p> <p>17 involved Mayor Sullivan by definition.</p> <p>18 I don't know, and I'm trying to</p> <p>19 determine, whether or not I would have ever</p> <p>20 represented Mayor Sullivan; if that's</p> <p>21 distinguishable from representing the City. I'm not</p> <p>22 sure you can necessarily easily pull those two</p> <p>23 things apart.</p> <p>24 Q. Just moving on, which public officials or</p>	<p style="text-align: right;">93</p> <p>1 this is what the question is: Did I do anything for</p> <p>2 a particular city councilor? Did I do any work for</p> <p>3 a particular school department member, or --</p> <p>4 Q. Let me just try to put some definition on</p> <p>5 that. When I say were you engaged by any public</p> <p>6 official or ex-public official where they paid you</p> <p>7 personally for legal services, does that help you</p> <p>8 out?</p> <p>9 I'm not asking you about whether you may</p> <p>10 or may not have technically or indirectly</p> <p>11 represented a public official because you were</p> <p>12 representing the City of Lawrence.</p> <p>13 Using a for-instance, Maurice LaRiviere,</p> <p>14 you represented him in a federal matter in which he</p> <p>15 engaged you separately from the City of Methuen.</p> <p>16 A. Aside from him, I can't think of anyone.</p> <p>17 Maybe there's someone, but at the moment I can't</p> <p>18 think of anyone.</p> <p>19 Q. With respect to Maurice LaRiviere's federal</p> <p>20 lawsuit, would you agree that that was a case that</p> <p>21 received publicity via several articles in the</p> <p>22 Eagle-Tribune?</p> <p>23 A. I believe it did.</p> <p>24 Q. And will you agree with me that you were</p>

<p style="text-align: right;">94</p> <p>1 mentioned in many of those articles as being his 2 counsel? 3 A. I can't agree with you, only because I 4 don't remember. It may well have been the case, but 5 I would have considered my father to be more or less 6 the lead dog on that. 7 Q. But is it fair to say that you were co- 8 counsel in Mr. LaRiviere's claims in federal court 9 against the Methuen police chief? 10 A. Yes. 11 Q. And you had an appearance in for the 12 entirety of that case? 13 A. Absolutely. 14 Q. And you were seated at trial during the 15 trial? 16 A. Yes. 17 Q. After the radio broadcast of August 23, 18 2008, you and your office continued to represent 19 public officials and ex-public officials in the 20 Lawrence and Methuen area; is that correct? 21 A. You'll have to be more specific. 22 Q. You've represented specifically Lawrence 23 Mayor Lantigua? 24 A. Mayor Lantigua? Are you asking me -- well,</p>	<p style="text-align: right;">96</p> <p>1 A. I don't remember precisely when that was 2 first filed. I have a memory, and I'm not positive, 3 that that case began, I want to say, middle, late 4 2010; but let me be clear. 5 That case was filed in, I want to say, 6 October of 2010. Ms. Perkins had a workers' 7 compensation case, and I don't remember exactly when 8 that was filed; but I was involved in that workers' 9 compensation case. 10 Q. Let me just ask you this. Since August 23, 11 2008, it's correct to say that, despite that radio 12 broadcast, you still have been hired by the mayor of 13 Lawrence to defend the City with respect to certain 14 employment claims; correct? 15 A. I think it is correct to say that I did no 16 work for the City of Lawrence from the time of the 17 radio broadcast until sometime in 2010, and I can't 18 put an exact date on it, but sometime in 2010, when 19 I was rehired to do work for the City of Lawrence. 20 Q. Have you been engaged by Mayor Lantigua 21 personally, with respect to any personal legal 22 matters of his? 23 A. Again, getting into attorney-client issues. 24 I'm not sure what the relevance is.</p>
<p style="text-align: right;">95</p> <p>1 go ahead; ask your question. 2 Q. When were you first engaged by Mayor 3 Lantigua to represent him on any legal matter? 4 A. Let me just put it this way: There are 5 precision issues that make that question hard to 6 answer. 7 Q. At this point, all I'm asking for you is to 8 tell me when you first began representing Mayor 9 William Lantigua. 10 A. Again, the question is imprecise; and I'm 11 making a deal out of it because it is of some 12 importance. I believe that the first involvement I 13 had with representing Mayor Lantigua was in a 14 lawsuit brought by an ex-employee. 15 Q. Well, it's been published in the Eagle- 16 Tribune that you've been paid to represent the City 17 of Lawrence and Mayor William Lantigua with respect 18 to the claims of wrongful termination and harassment 19 by former personnel department employees, personnel 20 director Frank Bonet and personnel secretary Lorenza 21 Ortega. 22 A. Yes. 23 Q. With respect to those matters, when were 24 you engaged?</p>	<p style="text-align: right;">97</p> <p>1 Q. Well, the relevance is pertaining to 2 whether or not your reputation has been harmed by 3 any of the defendants; and discovery of whom you're 4 now representing, and whether they have hired you 5 despite what has been published or broadcast about 6 you I think is of general importance and relevance. 7 That's why I'm making an inquiry in this area. 8 A. Yes; as I've said before, I've been 9 retained by the City of Lawrence on a number of 10 matters -- 11 Q. Since 2010? 12 A. Since 2010; beginning in 2010. 13 Q. Aside from the City of Lawrence, have there 14 been any other municipalities or public officials or 15 agencies that you've been engaged by subsequent to 16 the August 23, 2008 broadcast? 17 A. No. 18 Q. Your representation of the City of Lawrence 19 with respect to those employment claims has garnered 20 interest by the media and has resulted in 21 publications in the media, including the Eagle- 22 Tribune; is that correct? 23 A. I believe that's correct. 24 Could we go off the record for a second?</p>

<p style="text-align: right;">98</p> <p>1 Q. Sure.</p> <p>2 (Recess)</p> <p>3 MR. DICKISON: Let's go back on the</p> <p>4 record.</p> <p>5 Q. We just took a brief break.</p> <p>6 I think I'm going to move on to a</p> <p>7 different subject matter. There are more questions</p> <p>8 I may have generally about your practice insofar as</p> <p>9 whether or not it's been damaged by the broadcast</p> <p>10 that's at issue in this case; and specifically we</p> <p>11 might need to get more detail about the type of work</p> <p>12 you're doing for the City of Lawrence, and the</p> <p>13 nature of that work, and whether you've ever been</p> <p>14 damaged in that regard.</p> <p>15 With respect to where we've been, right</p> <p>16 now, given that we're going to have a hearing in</p> <p>17 front of the court on these privilege issues, I'm</p> <p>18 going to suspend on that subject for right now and</p> <p>19 move on; okay?</p> <p>20 A. Fair enough.</p> <p>21 Q. Before we take a lunch break, prior to</p> <p>22 August 23, 2008, had you ever, to your knowledge,</p> <p>23 been the subject of any discussion or broadcast that</p> <p>24 was on the radio station 980 WCAP, owned and</p>	<p style="text-align: right;">100</p> <p>1 prior to August 23, 2008?</p> <p>2 A. No.</p> <p>3 Q. With respect to Mr. Duggan, had you ever</p> <p>4 had any dealings with him prior to the broadcast on</p> <p>5 August 23, 2008?</p> <p>6 A. Directly?</p> <p>7 Q. Yes.</p> <p>8 A. No.</p> <p>9 Q. Just going back to the radio station for a</p> <p>10 moment, had you ever been aware of an individual who</p> <p>11 had an interest in the radio station named Clark</p> <p>12 Smidt?</p> <p>13 A. I'm familiar with the name, and I can't say</p> <p>14 whether or not I was familiar with it before or</p> <p>15 after all this happened.</p> <p>16 Q. To your knowledge or memory, did you have</p> <p>17 any personal dealings with Clark Smidt prior to the</p> <p>18 broadcast on August 23, 2008?</p> <p>19 A. I had none whatsoever, to my knowledge.</p> <p>20 Q. To turn back to Mr. Duggan, had you ever</p> <p>21 spoken to him prior to the broadcast on August 23,</p> <p>22 2008?</p> <p>23 A. I honestly don't believe so.</p> <p>24 Q. Had you had any exchange of correspondence</p>
<p style="text-align: right;">99</p> <p>1 operated by Merrimack Valley Radio LLC?</p> <p>2 A. To my knowledge, never.</p> <p>3 Q. Setting aside whether Mr. Duggan is somehow</p> <p>4 employed by or affiliated with the radio station, to</p> <p>5 your knowledge, prior to August 23, 2008, had you</p> <p>6 ever had any dealings or interaction with any</p> <p>7 representative of Merrimack Valley Radio, LLC, which</p> <p>8 operates as 980 WCAP?</p> <p>9 A. None.</p> <p>10 Q. Do you have any information of any kind as</p> <p>11 to whether any individuals or employees or</p> <p>12 representatives of Merrimack Valley Radio, LLC,</p> <p>13 which is operating at 980 WCAP, had any ill-will or</p> <p>14 grudge or malice towards you, in any respect, on any</p> <p>15 subject matter, prior to August 23, 2008?</p> <p>16 A. Putting aside the principals in this</p> <p>17 lawsuit?</p> <p>18 Q. Yes.</p> <p>19 A. No, I'm not aware of anybody else.</p> <p>20 Q. Do you know who Colonel Sam Poulten is?</p> <p>21 A. I know him only from the one time that</p> <p>22 we've met him, and I think I heard him on the radio</p> <p>23 once or twice.</p> <p>24 Q. Had you ever had any dealings with him</p>	<p style="text-align: right;">101</p> <p>1 -- be it email, letters, any sort of exchange of</p> <p>2 communication -- between you and Mr. Duggan prior to</p> <p>3 August 23, 2008?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Are you aware of any statement made about</p> <p>6 or concerning you or your law practice by Thomas</p> <p>7 Duggan prior to August 23, 2008?</p> <p>8 A. Yes.</p> <p>9 Q. And what statement are you aware of?</p> <p>10 A. There is an article that concerns the</p> <p>11 Jennifer Pedallaro case, and my alleged involvement,</p> <p>12 in that article.</p> <p>13 Q. Was this an article published in the Valley</p> <p>14 Patriot?</p> <p>15 A. Once again, precision of words.</p> <p>16 My understanding is now, based on some</p> <p>17 of the work we've done, that there's a difference</p> <p>18 between the Valley Patriot newspaper, the Valley</p> <p>19 Patriot website, and Facebook and Twitter. I think</p> <p>20 those are more recent than 2008.</p> <p>21 I don't remember when I first became</p> <p>22 aware of the article about the Pedallaro case.</p> <p>23 With deference to Mr. Duggan, I don't</p> <p>24 recall reading the Valley Patriot on a monthly basis</p>

<p style="text-align: right;">102</p> <p>1 prior to all this happening, although certainly I</p> <p>2 was familiar with it and I had read it in the past.</p> <p>3 Q. Do you recall what the statement about you</p> <p>4 in the Pedallaro case was?</p> <p>5 A. I don't know that I'm mentioned directly in</p> <p>6 that article whatsoever.</p> <p>7 Q. Do you have any reason to believe that</p> <p>8 Mr. Duggan had a dispute with you prior to August</p> <p>9 23, 2008?</p> <p>10 A. Prior to August 2008?</p> <p>11 Q. Yes.</p> <p>12 A. I had no knowledge prior to August of 2008</p> <p>13 of how Mr. Duggan felt about me one way or the</p> <p>14 other.</p> <p>15 Q. And to your knowledge, you didn't have any</p> <p>16 dispute with him of a personal or business nature;</p> <p>17 is that correct?</p> <p>18 A. At that time?</p> <p>19 Q. At that time.</p> <p>20 A. No, I was aware of nothing at that time.</p> <p>21 Q. Are you aware of any personal animosity</p> <p>22 that Mr. Duggan might have had towards you that</p> <p>23 informed his broadcast of August 23, 2008?</p> <p>24 A. Certainly everything that has gone on since</p>	<p style="text-align: right;">104</p> <p>1 A. Again, I'm having difficulty answering your</p> <p>2 question, only because I'm not sure if you're asking</p> <p>3 me what I knew then versus what I know now.</p> <p>4 Q. Well, let me break it down.</p> <p>5 On August 23, 2008, were you aware of</p> <p>6 any information that Mr. Duggan had some sort of</p> <p>7 personal animosity towards you that motivated or</p> <p>8 informed the statements he made on the radio</p> <p>9 broadcast of August 23, 2008?</p> <p>10 A. I'm sorry if I'm repeating the question,</p> <p>11 but I'm trying to make sure I understand it.</p> <p>12 Was I aware prior to the broadcast on</p> <p>13 August 23, 2008 whether or not Mr. Duggan had any</p> <p>14 animosity towards me?</p> <p>15 Q. Yes.</p> <p>16 A. No, I was not aware of anything at that</p> <p>17 time.</p> <p>18 Q. Are you aware of something now that leads</p> <p>19 you to believe that on the date August 23, 2008</p> <p>20 Mr. Duggan did in fact have some sort of personal</p> <p>21 animosity towards you?</p> <p>22 A. Yes.</p> <p>23 Q. What are you aware of now?</p> <p>24 A. Everything that has grown out of this</p>
<p style="text-align: right;">103</p> <p>1 that time is evidence of some personal animosity.</p> <p>2 Q. I understand your position.</p> <p>3 What I'm asking for is specifically,</p> <p>4 looking at the time as of August 23, 2008, are you</p> <p>5 aware of any information -- be it something that</p> <p>6 you've heard, a document that you've seen, something</p> <p>7 that you personally know -- evidencing any personal</p> <p>8 animosity that Thomas Duggan had towards you that</p> <p>9 might have motivated or been the foundation for the</p> <p>10 broadcast of August 23, 2008?</p> <p>11 A. I think my answer would be the same, which</p> <p>12 is that there is a good deal of information that has</p> <p>13 been produced and generated since that time.</p> <p>14 But if you are asking me what I knew at</p> <p>15 that time?</p> <p>16 Q. I'm asking you what you know now that</p> <p>17 relates back to prior to that time, or at that time.</p> <p>18 Are you aware of any information from</p> <p>19 any source such as, for instance, someone says, wow,</p> <p>20 you may not have known it, but in 2005 you sued</p> <p>21 Duggan's best friend, and now, looking back on it,</p> <p>22 you realize that Mr. Duggan may have had some</p> <p>23 personal animosity that somehow may have informed</p> <p>24 the broadcast that was made on August 23, 2008?</p>	<p style="text-align: right;">105</p> <p>1 lawsuit. We can go over it all chapter and verse,</p> <p>2 but it will take a while.</p> <p>3 Q. Just so I understand generally what you're</p> <p>4 talking about, are you talking about the various</p> <p>5 statements made in the printed version of the Valley</p> <p>6 Patriot and the Web version of the Valley Patriot?</p> <p>7 A. Again, I'm talking about everything that's</p> <p>8 transpired; and I'm not trying to be --</p> <p>9 Q. I'm just trying to find out what your</p> <p>10 "everything" is.</p> <p>11 A. And that's why I'm trying not to sit here</p> <p>12 and take time going through every page of everything</p> <p>13 that we don't know about.</p> <p>14 Q. I don't want you to do that, either, and</p> <p>15 perhaps if you could list general categories of what</p> <p>16 you're talking about.</p> <p>17 In my mind, what "everything" means is</p> <p>18 any of the subsequent statements that Mr. Duggan</p> <p>19 might have posted on a website he controls or in the</p> <p>20 publication that he operates, the Valley Patriot.</p> <p>21 That's in my mind what "everything" means.</p> <p>22 But maybe there are other categories,</p> <p>23 and that's what I'm trying to determine, that you</p> <p>24 believe exist that somehow demonstrate Mr. Duggan's</p>

<p style="text-align: right;">106</p> <p>1 animosity towards you at the time of the broadcast.</p> <p>2 A. Without limiting it, it's the broadcasts,</p> <p>3 certainly; other statements he's made on the radio</p> <p>4 program regarding me and my family. The mentions of</p> <p>5 me and my family in the Valley Patriot, both on the</p> <p>6 website, the newspaper, the Facebook, the Twitter</p> <p>7 feed; all of those things.</p> <p>8 And let me just go back, too, because</p> <p>9 you're talking about personal animosity, and I want</p> <p>10 to make sure we're defining that properly.</p> <p>11 I'm sitting at the table right now with</p> <p>12 Mr. Duggan, and I certainly don't feel like he's</p> <p>13 going to come over the table and start taking a</p> <p>14 swing at me, in terms of that sort of personal</p> <p>15 animosity.</p> <p>16 I just want to be clear about what it is</p> <p>17 that I'm saying. I have no reason to believe he</p> <p>18 hates me because of my tie selection or something</p> <p>19 like that.</p> <p>20 Q. I don't want to spin this out too long,</p> <p>21 because we're going to try to take a reasonable</p> <p>22 break here in a moment; but obviously one of the</p> <p>23 main issues in this case from our perspective is</p> <p>24 whether or not there was so-called actual malice by</p>	<p style="text-align: right;">108</p> <p>1 plaintiff William H. DiAdamo to the interrogatories</p> <p>2 of the defendant Merrimack Valley Radio, LLC.)</p> <p>3 MR. DICKISON: Let's go back on the</p> <p>4 record.</p> <p>5 Q. Before we broke, when you were testifying</p> <p>6 about the statements that were made on the radio</p> <p>7 broadcast of August 23, 2008, you mentioned that</p> <p>8 there were other broadcasts about you on the radio</p> <p>9 station that you took issue with.</p> <p>10 First of all, is that true?</p> <p>11 A. Yes.</p> <p>12 Q. Did the radio station broadcast statements</p> <p>13 concerning you that you considered defamatory?</p> <p>14 A. Yes.</p> <p>15 Q. What other broadcasts? Do you know the</p> <p>16 dates of them?</p> <p>17 A. Well, I don't know the dates of all of</p> <p>18 them. There was certainly August 30; I had issue</p> <p>19 with some of the statements on August 30.</p> <p>20 I don't know that I have the dates of</p> <p>21 the other ones off the top of my head; but my chief</p> <p>22 complaint, if that's one way of encapsulating it, is</p> <p>23 that there have been a number of stories.</p> <p>24 It's not always easy to separate what</p>
<p style="text-align: right;">107</p> <p>1 Mr. Duggan at the time of August 23, 2008.</p> <p>2 In that connection, are you aware of</p> <p>3 some information that would support your contention</p> <p>4 that Mr. Duggan made statements on the radio</p> <p>5 broadcast solely for the purpose of hurting you, and</p> <p>6 without any basis?</p> <p>7 That's what I mean by animosity; not</p> <p>8 that Mr. Duggan had a desire to physically harm you,</p> <p>9 but whether in fact you have information that he was</p> <p>10 making statements about you for no other purpose</p> <p>11 than to somehow harm your reputation.</p> <p>12 A. Because I am not in Mr. Duggan's mind, I</p> <p>13 cannot say that that was his sole purpose; so I</p> <p>14 think that the question itself is, to be frank,</p> <p>15 problematic.</p> <p>16 I do think, certainly, that that was</p> <p>17 part of his intent; and part of, certainly, what did</p> <p>18 happen.</p> <p>19 Q. I appreciate that.</p> <p>20 MR. DICKISON: Let's do this. Do you</p> <p>21 guys want to take a break, grab a sandwich?</p> <p>22 We'll take a break. Off the record.</p> <p>23 (Lunch recess)</p> <p>24 (Marked, Exhibit 4, answers of the</p>	<p style="text-align: right;">109</p> <p>1 has taken place either in print or on the Internet</p> <p>2 versus what's taken place on the radio, and</p> <p>3 sometimes things on the radio will refer to things</p> <p>4 that are in print.</p> <p>5 So it's not specifically something that</p> <p>6 was said on the radio, but a reference to something</p> <p>7 else that's defamatory or damaging; and I think that</p> <p>8 those two things need to be considered together.</p> <p>9 Q. Do you recall what statements were</p> <p>10 broadcast on August 30, 2013 that you consider</p> <p>11 defamatory?</p> <p>12 A. Yes. I don't have the broadcast sitting in</p> <p>13 front of me, but --</p> <p>14 Q. But there is a copy of the broadcast</p> <p>15 somewhere?</p> <p>16 A. Yes. It's been produced in other</p> <p>17 pleadings; it's also been produced in other</p> <p>18 depositions in this case, and I have both a</p> <p>19 transcript and the recording itself.</p> <p>20 Q. I'll try to get my hands on that. For</p> <p>21 whatever reason, I don't think I've seen that.</p> <p>22 Do you have transcripts of other</p> <p>23 broadcasts other than the one on August 30, 2013?</p> <p>24 A. Those are the only two I've transcribed.</p>

<p style="text-align: right;">110</p> <p>1 Q. Meaning the August 23, 2008, and August 30, 2 2008?</p> <p>3 A. Yes.</p> <p>4 Q. I think I just misspoke and said 2013.</p> <p>5 A. I understood.</p> <p>6 Q. The only two radio broadcasts that have 7 transcripts of are August 23, 2008 and August 30, 8 2008?</p> <p>9 A. I believe that's correct.</p> <p>10 Q. Did you actually hear the August 23, 2008 11 broadcast?</p> <p>12 A. No.</p> <p>13 Q. How did you hear about it?</p> <p>14 A. Got a phone call.</p> <p>15 Q. And who was the caller?</p> <p>16 A. Larry Conlon.</p> <p>17 Q. And who is Larry Conlon?</p> <p>18 A. Larry Conlon is a businessman in the area.</p> <p>19 Q. And what did Larry report to you?</p> <p>20 A. I don't remember the exact words.</p> <p>21 I actually remember where I was; because 22 it was the end of August, and I was visiting friends 23 in Maine.</p> <p>24 I got a call, I believe it was Sunday</p>	<p style="text-align: right;">112</p> <p>1 A. The words themselves, no. I believe it's 2 been referred to on the radio.</p> <p>3 Q. And to your knowledge, the broadcast was 4 posted on an Internet website that you believe was 5 controlled by Tom Duggan?</p> <p>6 A. That's correct.</p> <p>7 Q. And it's fair to say that, to the best of 8 your knowledge and belief, the broadcast of August 9 23, 2008 was not posted on a website owned or 10 controlled by the radio station?</p> <p>11 A. That is correct. I don't know one way or 12 the other, but I'm simply going off what the name of 13 the website is. I don't know who had actual 14 ownership of it.</p> <p>15 Q. Where does Larry Conlon reside, if you 16 know?</p> <p>17 A. I don't. Somewhere, I believe, in the 18 Greater Lawrence area; but I don't know.</p> <p>19 Q. Did he relate to you anything other than 20 that Tom Duggan had attacked you on the radio 21 broadcast?</p> <p>22 A. I'm sure he said something else, because 23 the conversation lasted more than 15 seconds; but I 24 was upset, and don't recall specifically what the</p>
<p style="text-align: right;">111</p> <p>1 morning; and I don't remember the exact words, but 2 the gist of it was that Tom Duggan had attacked me 3 on the radio.</p> <p>4 Q. And what did you do when you learned that?</p> <p>5 A. I was certainly upset.</p> <p>6 I got home later that day, I believe it 7 was that day, but I can't be sure; and sometime 8 shortly thereafter I went online and downloaded a 9 copy of the portion of the broadcast involving me, 10 and listened to it, et cetera.</p> <p>11 Q. Was that valley patriot.com that you went 12 to?</p> <p>13 A. I don't believe it was valley patriot.com, 14 although I don't remember. It may have been 15 payingattentionwithtommyduggan.blogspot.com.</p> <p>16 Q. After you downloaded that broadcast, was 17 there ever a time where you received a copy of that 18 broadcast, or heard it in some other manner or form?</p> <p>19 A. I don't believe so.</p> <p>20 Q. Just so I'm clear, to your knowledge, the 21 broadcast that's the subject of the amended 22 complaint -- the broadcast on August 23, 2008 -- 23 has not been re-broadcast on some other date on the 24 radio station? Would that be a fair statement?</p>	<p style="text-align: right;">113</p> <p>1 conversation was.</p> <p>2 As I said, I remember where I was 3 standing at the time. I was standing in a parking 4 lot outside of a playground in Bridgton, Maine, when 5 the conversation took place.</p> <p>6 Q. Did Larry Conlon relate to you whether he 7 thought the broadcast was damaging to you in any 8 way?</p> <p>9 A. Again, not being able to recall the words, 10 yes, that was the sense I got.</p> <p>11 Q. Did Mr. Conlon relate to you whether he now 12 thought less of you, or held you in less regard, 13 because of the broadcast?</p> <p>14 A. I don't know if he said that.</p> <p>15 I was concerned, certainly, that he felt 16 that way, because he had certainly called me to 17 relay it to me; and I was certainly concerned about 18 what he thought.</p> <p>19 I certainly did not ask him, gee, do you 20 trust me less now? But I was very concerned about 21 that.</p> <p>22 Q. Was he a client of yours?</p> <p>23 A. I don't know if it still exists, but there 24 was an entity known as Lawrence Downtown Parking</p>

<p style="text-align: right;">114</p> <p>1 Associates. Mr. Conlon was one of the members of 2 that entity, and I had done work for them in the 3 past. 4 Sometimes it was on, sometimes it was 5 off; so I don't know if I was doing anything at that 6 particular moment. I doubt it. But that was my 7 interaction with Mr. Conlon. 8 Q. And did you lose him as a client as a 9 result of the broadcast? 10 A. I have not done any work for Mr. Conlon 11 since that time. 12 Q. Have you since spoken to Mr. Conlon about 13 the broadcast, and whether or not because of the 14 broadcast he has decided not to use your legal 15 services? 16 A. He has never said that. 17 Q. Do you know of anybody else who actually 18 heard the original radio broadcast, other than 19 Mr. Conlon? 20 A. I don't know who heard the broadcast on the 21 radio. I don't know; I mean, I have -- 22 Q. I understand you don't know. But more 23 specifically, has anyone, as Mr. Conlon did, come 24 forward to you and said, "I heard the broadcast on</p>	<p style="text-align: right;">116</p> <p>1 know who was aware of it at that time, or who has 2 become aware of it since. 3 I believe that many people have become 4 aware of it because of things that were published in 5 the Valley Patriot that have been sort of traced 6 back by people who are aware of this lawsuit and 7 have been anecdotally become aware of the broadcast, 8 either specifically or in gist. 9 Q. To the best you can remember, going back to 10 the time period of the weeks following August 23, 11 2008, and prior to the initiation of this lawsuit, 12 can you recall any one individual that came forward 13 to you and said, "I heard about the broadcast"? 14 A. As opposed to actually having heard the 15 broadcast? 16 Q. Yes, just mentioned it; that they knew 17 about the fact of the broadcast that concerned you, 18 and his negative view towards you. 19 A. Can you restate it? 20 Q. Strike that. 21 In the weeks following August 23, 2008, 22 who if anyone came forward to you and said "I heard 23 about the fact that a radio broadcast by Tom Duggan 24 was made concerning you"?</p>
<p style="text-align: right;">115</p> <p>1 August 23, 2008 by Tom Duggan on Paying Attention, 2 and wanted to make sure you knew about it"? Has 3 anyone at all come forward and related that to you? 4 A. To that matter, I suppose I don't know that 5 Mr. Conlon heard it on that date and time. I don't 6 think I've ever asked him that question, if he was 7 actually listening to the radio at that time. 8 I know of many people who were aware of 9 the broadcast; I don't know how. I don't know 10 whether many of them have ever heard it. But I do 11 know there are many, many people who are aware of 12 it. 13 Q. But just focusing for the moment on people 14 who you know for sure have actually heard the 15 contents of the broadcast, do you know anybody -- 16 A. Well, from a strict standpoint, I wasn't 17 within WCAP's range when it was broadcast; so I 18 don't know specifically who has heard it or who has 19 downloaded it. 20 Q. Do you know, with respect to the people who 21 you say are aware of the broadcast, who are those 22 folks? Is it a long list? 23 A. I would say that it is a long list, the 24 difficulty being timing, in the sense that I don't</p>	<p style="text-align: right;">117</p> <p>1 A. I'm just trying to remember exactly who, 2 during that time frame. 3 During those couple of weeks initially, 4 certainly there was some communication, obviously, 5 with Mr. Duggan; there was some communication with 6 Ms. Porten. 7 At some point I believe I became aware 8 that Michael Tarshi, who was a lawyer in the area, 9 was aware of it. 10 Ted Fairburn, who was no longer with my 11 office but was out on his own, was aware of it. 12 And I can't be sure of the exact time 13 frames here, but during sort of this initial salvo. 14 And then, I was generally aware that 15 some of the people in City Hall were aware of it. 16 Q. Any individuals in particular at City Hall? 17 A. I can't remember who said what first, but I 18 believe that Charlie Boddy was aware of it; I think 19 Patrick Blanchette was aware of it. 20 I'm trying to think of who else was 21 sitting in City Hall that I would have discussed it 22 with at that time. 23 There was the initial salvo in 24 September. Then there was a further follow-up, the</p>

<p style="text-align: right;">118</p> <p>1 follow-up story referenced here in Exhibit No. 2; 2 which made even more people aware that there was 3 something going on. 4 Q. I don't mean to cut you off, but let me ask 5 you the question a different way. 6 Can you identify any individual who 7 holds you in less regard as a result of the 8 broadcast? 9 A. It's a question which is extraordinarily 10 difficult to answer; because, as you are probably 11 aware, nobody is going to come up to you and say 12 "Gee, I hold you in less regard." At the same time, 13 I'll give you an example that's very fresh in my 14 mind even now. 15 I was walking into a hockey rink 16 yesterday afternoon, and a local lawyer whom I know 17 well said hi, as we were sort of walking past each 18 other. I'm sorry, I don't recall the exact words 19 that were spoken; but it was, what the heck is going 20 on with Duggan? 21 And I sort of laughed and put it off a 22 little bit, and said, someday I'll be able to tell 23 you the story, and blah-blah. Just life-in-the-big- 24 city kind of stuff; just sort of blew it off.</p>	<p style="text-align: right;">120</p> <p>1 merely whether anyone has actually stated to you -- 2 maybe not directly, but either indirectly or somehow 3 articulated -- that they believe that what was 4 stated by Mr. Duggan on the radio station in the 5 broadcast of August 23, 2008 was true, and now holds 6 you in either less regard or doesn't interact you at 7 all. 8 Is there anybody that has notified you 9 of that? 10 A. I'm just trying to make sure I understand 11 your question. 12 Q. It was a terrible question. 13 A. In the interest of trying to articulate it, 14 has anybody come up to me and said, "I heard about 15 the broadcast; I no longer trust you or want you to 16 represent me," or along those lines? Something that 17 direct, no. 18 Q. Indirectly, are you claiming that the radio 19 broadcast on August 23, 2008 caused you to lose any 20 client or business and resulted in direct financial 21 damage or loss of income to you? 22 A. As I said before, I cannot quantify 23 exactly, because nobody has come to me and said 24 that; so it's impossible for me to say. I don't</p>
<p style="text-align: right;">119</p> <p>1 And she said, "You know, I read the 2 Valley Patriot too," and just sort of left it at 3 that. And I said, "See you." 4 And there was a discussion about a 5 Halloween party later on, but I sort of shrugged it 6 off like that. 7 This is somebody that I know and I would 8 hope would trust what they have seen of me over a 9 period of time, but I don't know whether or not they 10 do hold me in less regard because of all of this. 11 It is a fear of mine with almost every 12 client that I have. It is a fear of mine because it 13 is all available online, because we live in a world 14 where people Google names when they hear them, or if 15 they're going to hire an attorney. 16 Because I have tried assiduously to 17 remain out of the spotlight, when they do Google my 18 name, this mess is going to come up near the top of 19 the list. So this is something that I am concerned 20 about with every existing client, every future 21 client, and even past clients. 22 Q. I understand your subjective concerns and 23 perceptions. 24 What I'm looking for with my question is</p>	<p style="text-align: right;">121</p> <p>1 send out little questionnaires when clients leave 2 and say, why did you leave? 3 I also don't send out questionnaires to 4 other people and say, this work is available, why 5 didn't you hire me for it? It would be nuts, and 6 impossible. 7 But I'm very serious when I say that it 8 is in the equation on everything, because I don't 9 know. 10 I have a number of clients who have 11 brought it up. They haven't necessarily fired me; 12 but when they bring it up out of the blue, it's 13 obviously a significant source of concern. 14 Something that I have to deal with with 15 almost all of them is some sort of explanation; and 16 there is a sort of hurdle that I need to overcome, 17 in my mind, to deal with what is out there. 18 Q. I understand that. 19 Again, I'm just asking you to 20 articulate: are there any specific clients or any 21 category of business that you allege you lost as a 22 result of the broadcast by the radio station on 23 August 23, 2008? 24 A. If you're asking if there's anything that I</p>

<p style="text-align: right;">122</p> <p>1 quantified, did I lose XYZ Corporation as a client 2 because of the broadcast, I cannot quantify it. 3 Q. Since we're on this topic, I marked during 4 the break our interrogatories, which I'll put before 5 you. I want to go over them in another matter; but 6 I think we didn't, for whatever reason, get answers 7 on the issue of damages about the broadcast. 8 One of the questions we asked was for 9 you to itemize all economic loss, and provide a 10 computation of damages which you sustained, as a 11 result of the radio station's acts in the amended 12 complaint. That was Interrogatory 29. 13 Understanding the nature of everything, 14 I still want to ask you, do you have a computation 15 of damages, and can you itemize any economic loss 16 that you suffered as a result of the broadcast by 17 the radio station on August 23, 2008? 18 A. And the simple answer is, frankly, that's 19 why the law is what it is; that no, I can't. 20 It would be very nice if somebody came 21 up to me and said, gee, I fired you for the 22 broadcast, but I can honestly say that nobody has 23 done that; and so I cannot quantify with dollars and 24 cents what this has actually cost me or my firm or</p>	<p style="text-align: right;">124</p> <p>1 is that certainly I am economically responsible for 2 my family, meaning my wife and children; so whatever 3 happens to me happens to them by definition. 4 I have worked with my father for years 5 and years. I am very close to my father. 6 Everything in my family is treated as family, so 7 that anything that harms any of us harms all of us. 8 And let me just finish the answer, if I 9 can. 10 Part of the issue, frankly, is that when 11 you have a somewhat unusual name -- that's why I say 12 family, because there aren't a lot of DiAdamos 13 kicking around -- if something mentions a DiAdamo, 14 then certainly it carries over to my father; and 15 there have been direct attacks on my father. 16 Some of this stuff, I worry about its 17 carrying over to my brother, who is also a lawyer, 18 not related to the firm but has the name; and it's 19 well-known enough in legal circles that people will 20 make the association. 21 Will it carry over some day to my 22 children? I don't know. 23 Q. I appreciate your answer. 24 Just to see if we've got some agreement,</p>
<p style="text-align: right;">123</p> <p>1 my family or anything else. 2 What I can say is that it is a cloud 3 that hangs over everything, and it is one of the 4 reasons that you can recover for without coming up 5 with specifics. It's out there in the world, and I 6 wish I could quantify it, but nobody is ever going 7 to answer that question. 8 I suppose, if I suspected a client of 9 leaving me for those reasons, and I asked them, I 10 can't guarantee I would get a straight answer. 11 Q. I appreciate that. 12 You mentioned a few times today your 13 family, and technically you're the only plaintiff 14 here. 15 A. Yes. 16 Q. And so when you talk about statements that 17 damage your family, who are you specifically 18 referring to in terms of your family? 19 Your father is your family, and so I 20 want to be specific. Are you talking about the 21 statements impacting just you and your father, or 22 are you saying that your wife and kids have somehow 23 been damaged by these statements as well? 24 A. It goes back to my previous answer, which</p>	<p style="text-align: right;">125</p> <p>1 has there been any broadcast on the radio station 2 that concerned your wife or your children that 3 you're making a claim about? 4 A. No, and I don't mean to insinuate that. 5 I do appreciate the fact that everybody has been 6 properly respectful and kept it amongst the adults, 7 as it were. 8 I am not happy that, if the allegations 9 about wrongdoing that were made initially were about 10 me, that my father was unnecessarily dragged in. My 11 father has been a lawyer for a long time, and yes, I 12 am biased; but I would humbly suggest that he has an 13 excellent reputation, that he is a well-known, well- 14 respected trial lawyer, and that it hurt me deeply 15 to see him attacked for what I believe is doing 16 nothing wrong. 17 Q. Let me just switch back to Exhibit 1, which 18 is the complaint. 19 At Paragraph 24, you summarize that the 20 following statements in the broadcast are not true. 21 I just want to go over those. 22 And I think this is going to be an area 23 where we define the privilege a bit; so if you are 24 not going to answer, obviously that's your right to,</p>

<p style="text-align: right;">126</p> <p>1 so let me know.</p> <p>2 Page 6.</p> <p>3 A. Yes, I've got it. I'm painfully familiar</p> <p>4 with this document.</p> <p>5 Q. This is focusing, obviously, just on the</p> <p>6 August 23, 2008 broadcast. The first statement you</p> <p>7 take issue with is that "Plaintiff did not throw or</p> <p>8 lose the Traficanti case, and has not been accused</p> <p>9 of throwing the case."</p> <p>10 A. Correct.</p> <p>11 Q. What is the basis for your allegations that</p> <p>12 those statements are not true?</p> <p>13 A. Again, that's the place where we probably</p> <p>14 run into the most attorney-client issues.</p> <p>15 I know them not to be true; and aside</p> <p>16 from that, I think that's something that we need to</p> <p>17 leave.</p> <p>18 Q. I'm just going to ask a series of sub-</p> <p>19 questions about that.</p> <p>20 Is it true that you were accused by the</p> <p>21 City of Lawrence or some representative thereof of,</p> <p>22 quote, "throwing" the Traficanti case?</p> <p>23 A. Again, we're well into the privilege issue</p> <p>24 here.</p>	<p style="text-align: right;">128</p> <p>1 A. Again, we're in a privilege area, and we're</p> <p>2 kind of going down the rabbit hole. I think it</p> <p>3 would be more prudent to wait on it.</p> <p>4 Q. You've seen the affidavits of</p> <p>5 Mr. Sweeney --</p> <p>6 A. Yes; affidavit of Mr. Sweeney.</p> <p>7 Q. Affidavit of Mr. Sweeney, and the affidavit</p> <p>8 of Thomas Schiavone?</p> <p>9 A. Correct.</p> <p>10 Q. And the affidavit of Paula Porten?</p> <p>11 A. Correct.</p> <p>12 Q. Are you prepared to discuss any purported</p> <p>13 meeting between you and Michael Sweeney concerning</p> <p>14 Andrea Traficanti's workers' compensation case?</p> <p>15 A. Am I prepared? Yes. Am I going to? No,</p> <p>16 because the privilege has been asserted; even by</p> <p>17 Mr. Sweeney, I should note.</p> <p>18 Q. With regard to any discussions that you had</p> <p>19 with Thomas Schiavone concerning the Andrea</p> <p>20 Traficanti workers' compensation case, will you</p> <p>21 answer questions today about that topic, any</p> <p>22 meetings you had with him?</p> <p>23 A. Again, that's all within the privilege</p> <p>24 issue that has not been yet adjudicated.</p>
<p style="text-align: right;">127</p> <p>1 I'm not sure exactly what it is that</p> <p>2 you're asking me.</p> <p>3 Q. I'm asking you, did an individual who is</p> <p>4 working for the City of Lawrence accuse you of</p> <p>5 throwing, or intentionally losing, the Traficanti</p> <p>6 case?</p> <p>7 A. To my knowledge, no.</p> <p>8 Strike that. I mean, you're asking me</p> <p>9 what I have actual knowledge of, what I saw or</p> <p>10 heard? Because --</p> <p>11 Q. Right.</p> <p>12 A. Have they ever said that to me, "I, City of</p> <p>13 Lawrence Employee A, accuse you, William DiAdamo, of</p> <p>14 throwing the case"; have they said that to me?</p> <p>15 Q. Right.</p> <p>16 A. No.</p> <p>17 Q. Has any representative of the City of</p> <p>18 Lawrence told you that you were being terminated</p> <p>19 from the Traficanti case because they thought or</p> <p>20 perceived you had thrown the Traficanti case?</p> <p>21 A. Has anyone said that to me? No.</p> <p>22 Q. Do you know the reason for the City of</p> <p>23 Lawrence terminating your legal services with regard</p> <p>24 to the Traficanti case?</p>	<p style="text-align: right;">129</p> <p>1 Q. Have you ever contacted the City of</p> <p>2 Lawrence or any of their representatives with regard</p> <p>3 to waiving the attorney-client privilege so that you</p> <p>4 could talk freely about any aspect of the Traficanti</p> <p>5 case?</p> <p>6 A. Yes.</p> <p>7 Q. And who have you talked with there?</p> <p>8 A. Well, the initial discussion -- and I don't</p> <p>9 remember exactly how it went down, because it all</p> <p>10 took place pretty quickly, I believe in November of</p> <p>11 2008 -- I believe that my office contacted Charles</p> <p>12 Boddy, and it was in that time frame that my office</p> <p>13 filed a motion asking the City to waive the</p> <p>14 attorney-client privilege.</p> <p>15 And Mike Sullivan and Michael Sweeney,</p> <p>16 an attorney representing I believe those two people,</p> <p>17 in what capacity I'm still not entirely sure,</p> <p>18 opposed that motion; and it's still pending.</p> <p>19 Q. Have you made a specific request to the</p> <p>20 City of Lawrence, either orally or in writing, for</p> <p>21 them to waive the privilege so that you could talk</p> <p>22 about the issues that are the subject of this</p> <p>23 action?</p> <p>24 A. At what time?</p>

<p style="text-align: right;">130</p> <p>1 Q. At any time.</p> <p>2 A. Well, I just described to you one instance.</p> <p>3 Q. But other than what you've just related,</p> <p>4 have you received any specific position from the</p> <p>5 City of Lawrence as to whether or not they waive the</p> <p>6 privilege?</p> <p>7 A. At the moment I do not have the right to --</p> <p>8 at the moment, to my knowledge, they have not waived</p> <p>9 the privilege.</p> <p>10 Just so we're clear on the record,</p> <p>11 because this is somewhat unusual -- we're talking</p> <p>12 amongst the lawyers as well -- I am aware that</p> <p>13 Charles Boddy has received your letter regarding the</p> <p>14 privilege.</p> <p>15 First of all, my communications with him</p> <p>16 are privileged, but I'm aware from your copy that</p> <p>17 you sent it to him; so I understand that that's</p> <p>18 being re-discussed.</p> <p>19 Q. But at this moment in time, you have not</p> <p>20 learned one way or the other as to what position the</p> <p>21 City of Lawrence will take with respect to waiving</p> <p>22 the attorney-client privilege that they have</p> <p>23 concerning the Traficanti case so that you can</p> <p>24 discuss aspects of it with regard to this case?</p>	<p style="text-align: right;">132</p> <p>1 day-to-day basis is a gentleman named Joe Durant.</p> <p>2 Q. Do you have any of the time records or</p> <p>3 billing records that would reflect the time duration</p> <p>4 of meetings that you might have had on the</p> <p>5 Traficanti case?</p> <p>6 A. I believe that I have at least some records</p> <p>7 of some of the meetings that I had; first because I</p> <p>8 handled the case, all workers' comp, on a flat fee.</p> <p>9 I was not as assiduous about writing down time.</p> <p>10 Related to that is, because I'm here to</p> <p>11 elevator away from City Hall, lots of stuff</p> <p>12 necessarily took place on an ad-hoc basis. People</p> <p>13 would stop by, they'll say something, da da da da</p> <p>14 da; people were wandering in and out constantly.</p> <p>15 So that may be one of the things that</p> <p>16 may not be memorialized in the traditional sat-down-</p> <p>17 and-had-a-meeting format.</p> <p>18 Q. Do you have any records within your</p> <p>19 possession, custody or control that you have not</p> <p>20 been able to produce to us in this case?</p> <p>21 A. Yes.</p> <p>22 Q. And you're withholding those records on the</p> <p>23 grounds of attorney-client privilege?</p> <p>24 A. There's a privilege grounds.</p>
<p style="text-align: right;">131</p> <p>1 A. That is correct. To my knowledge, the</p> <p>2 Traficanti case is ongoing; and this is the subject</p> <p>3 of a continuing comp lawsuit.</p> <p>4 Q. Do you still have any part of the</p> <p>5 Traficanti file that reflects the work you did and</p> <p>6 the meetings you had?</p> <p>7 A. I'm sure I have things that remain.</p> <p>8 And just to be clear, when I released</p> <p>9 the files, I gave them to subsequent counsel, Ronald</p> <p>10 St. Pierre in Newburyport. I gave him all of the</p> <p>11 files immediately.</p> <p>12 Mr. St. Pierre retained all those files</p> <p>13 until I took the workers' comp back from the City of</p> <p>14 Lawrence.</p> <p>15 And I was not able to take back the</p> <p>16 Traficanti case, for a variety of reasons; mostly</p> <p>17 that I had been identified as a witness in that</p> <p>18 case. So the case was given to outside counsel; who</p> <p>19 still have it, to my knowledge.</p> <p>20 Q. Do you know who the outside counsel is now?</p> <p>21 A. I believe that the lawyer handling it is --</p> <p>22 I should know what the firm name is. It's Tentindo-</p> <p>23 blah-blah-blah; they're comp lawyers.</p> <p>24 I believe the person handling it on a</p>	<p style="text-align: right;">133</p> <p>1 And related to that, of course, is a</p> <p>2 sort of work-product grounds, that there are things</p> <p>3 that I developed that may still be used or useful</p> <p>4 with respect to the ongoing lawsuit.</p> <p>5 Q. Can you tell us whether or not there are</p> <p>6 any documents that would relate to or memorialize</p> <p>7 any of the meetings that you may or may not have had</p> <p>8 with either Mr. Schiavone or Mr. Sweeney in</p> <p>9 connection with the Traficanti case?</p> <p>10 A. I believe that there are documents, yes,</p> <p>11 that would be related to that meeting as well as</p> <p>12 other meetings with others.</p> <p>13 Q. But you have not produced them because of</p> <p>14 the privilege; correct?</p> <p>15 A. Correct.</p> <p>16 Q. Just moving on back to Exhibit 1, the next</p> <p>17 statement that you take issue with is, "Plaintiff is</p> <p>18 not 'best friends' with McCann. Plaintiff has no</p> <p>19 social relationship with McCann whatsoever."</p> <p>20 Do you still maintain that this</p> <p>21 statement was not true?</p> <p>22 A. Yes.</p> <p>23 Q. Are you able to discuss this statement</p> <p>24 without restriction today?</p>

<p style="text-align: right;">134</p> <p>1 A. Not without restriction.</p> <p>2 Let me be as clear as I can be, trying</p> <p>3 to be as forthcoming as I'm allowed to be. I'm sure</p> <p>4 I met Frank McCann, probably in the year 2000, when</p> <p>5 I started doing work for the GLSD. Frank McCann was</p> <p>6 one of the.... Actually, I take that back.</p> <p>7 I assume it was in 2000. He may have</p> <p>8 become DPW director sometime shortly thereafter, but</p> <p>9 it was in that time frame, early on in the game. By</p> <p>10 statute, the DPW director needs to be on the board</p> <p>11 of the GLSD.</p> <p>12 So I was certainly familiar with Frank</p> <p>13 around that time, and got to know him more and more</p> <p>14 over the intervening years as a commissioner for the</p> <p>15 GLSD, and also as the head of DPW.</p> <p>16 As you can imagine, a lot of the</p> <p>17 workers' compensation claims arise out of DPW, so I</p> <p>18 would certainly discuss those things with him.</p> <p>19 And also Frank smoked, like some other</p> <p>20 individuals. You're now familiar with the layout of</p> <p>21 my office and where it is with respect to City Hall.</p> <p>22 So I would occasionally go out to stretch my legs,</p> <p>23 and there's a group from City Hall that comes out</p> <p>24 and smokes from time to time, even now. Mr. McCann</p>	<p style="text-align: right;">136</p> <p>1 "numerous" means. I'm sure Frank had been in my</p> <p>2 office on a number of occasions.</p> <p>3 So numerous, meaning of some number,</p> <p>4 yes. How many, I don't know. The vast majority of</p> <p>5 interactions I had with him were standing outside,</p> <p>6 because I like to go outside and stretch my legs</p> <p>7 between doing various things.</p> <p>8 Even at the time I would go out and make</p> <p>9 phone calls walking around, just to get out of the</p> <p>10 office.</p> <p>11 Q. Was there a relationship between your</p> <p>12 father, Carmine DiAdamo, and Mr. McCann?</p> <p>13 A. I certainly was not present for every time</p> <p>14 that they conversed.</p> <p>15 Any time that I was present, it was the</p> <p>16 same conversations that we would have: stuff going</p> <p>17 on in the city, stuff going on in GLSD. Especially</p> <p>18 during this time period in the early 2000s, these</p> <p>19 several lawsuits were all going on.</p> <p>20 Q. Was there a social relationship between</p> <p>21 your father, Carmine DiAdamo, and Frank McCann?</p> <p>22 A. Social to the extent that you would discuss</p> <p>23 the weather or the Red Sox kind of social? Yes.</p> <p>24 Social to the extent of let's go have a beer or</p>
<p style="text-align: right;">135</p> <p>1 was one of those people. So occasionally I would</p> <p>2 see him, and we would talk.</p> <p>3 Q. Just to try to home in on it, what topic</p> <p>4 areas are you not able to discuss today because of</p> <p>5 the attorney-client privilege concerning Mr. McCann?</p> <p>6 A. I can discuss the non-representational</p> <p>7 portions of our discussions, which were at best</p> <p>8 infrequent. I don't think we ever talked about</p> <p>9 anything that wasn't related to work, although I'm</p> <p>10 sure we probably did.</p> <p>11 I honestly can't think of a single</p> <p>12 example, but there are lots of other things going on</p> <p>13 in Lawrence; and so there would be the usual sort of</p> <p>14 chatter about somebody did this or somebody did</p> <p>15 that, somebody did this, somebody did that. A</p> <p>16 little bit of small talk.</p> <p>17 But most of it had to do with either my</p> <p>18 representation of the City or my representation of</p> <p>19 the GLSD.</p> <p>20 Q. With regard to the broadcast of August 23,</p> <p>21 2008, is it true that Mr. McCann was in your law</p> <p>22 office on numerous occasions prior to the</p> <p>23 commencement of the Andrea Traficanti case?</p> <p>24 A. I am loath to try to determine what</p>	<p style="text-align: right;">137</p> <p>1 anything else? No.</p> <p>2 Q. Do you know whether or not your father or</p> <p>3 anyone else affiliated with his practice ever</p> <p>4 represented Frank McCann on any legal matter that</p> <p>5 was personal to him?</p> <p>6 A. Not to my knowledge, no. I did not.</p> <p>7 Q. Did you or your father ever discuss the</p> <p>8 Traficanti case with Frank McCann?</p> <p>9 A. My father, I don't know. I don't believe</p> <p>10 so, as he was mostly, for all intents and purposes,</p> <p>11 retired at this point.</p> <p>12 It may have come up in casual</p> <p>13 conversation, just that it existed; I don't know.</p> <p>14 It's not appropriate for me to speculate.</p> <p>15 I do know that....</p> <p>16 Can you ask me the question again?</p> <p>17 Q. Sure. Let me ask it as specifically as I</p> <p>18 can.</p> <p>19 Did you have any discussions with Frank</p> <p>20 McCann about the Andrea Traficanti case?</p> <p>21 A. Again, we're intruding on where the</p> <p>22 privilege issues are; and it's hard for me to answer</p> <p>23 the question with any completeness.</p> <p>24 I'm just trying not to get one-eighth of</p>

<p style="text-align: right;">138</p> <p>1 the way down a path if we're going to have to get 2 further down it at a later date. 3 Q. That's fine. 4 But one of the statements at issue in 5 the broadcast is that, quote, "What we have learned 6 is that Attorney DiAdamo admitted to at least two 7 members of the Sullivan administration that he is 8 best friends with Ms. McCann's husband, and that 9 Ms. McCann's husband was in his office discussing 10 the case on numerous occasions prior to him 11 representing the City on the case." 12 A. Yes. 13 Q. That's one of the issues. So is that 14 statement correct? Was Mr. McCann in your office 15 discussing the Andrea Traficanti case on numerous 16 occasions prior to your representation of the City 17 in the case? 18 A. I believe that, without getting into the 19 privilege, I can answer that narrow question but I 20 can't talk about anything else; just so we're clear. 21 Q. Okay. 22 A. So I think the answer to that is, that 23 statement is incorrect.... Strike that. 24 Q. I'm not trying to put you in harm's way,</p>	<p style="text-align: right;">140</p> <p>1 A. I was friendly with Frank McCann in the 2 sense that I have discussed, that I would see him 3 and we would talk about stuff, of no real depth or 4 complexity. 5 I would not consider him a friend, but I 6 would consider myself friendly towards him. I got 7 along with him fine. 8 Social relationship? No more so than 9 probably hundreds of acquaintances; "Hi, how are 10 you? Good to see you," blah blah blah. 11 Q. So I take it you wouldn't characterize him 12 as a best friend? 13 A. Not at all. 14 Q. Going back to the amended complaint, on 15 Page 6, Part C, you say it's not true that 16 "Plaintiff did not and does not make \$70,000 to 17 \$75,000 per year representing Lawrence in workers' 18 compensation cases." 19 What's not true about that statement? 20 A. The contract with the City of Lawrence from 21 2002, I think, when I took it back over, in that 22 time frame through 2008, and I think before that for 23 however long my father was doing it before I even 24 joined the firm, was for a flat fee of \$48,000 a</p>
<p style="text-align: right;">139</p> <p>1 either. That's a critical issue in the case, the 2 truth of whether these conversations occurred or 3 didn't occur; and so we would take the position 4 that, if you can't fully answer this question, then 5 we need a waiver -- 6 A. There are like five parts to that question, 7 and that's why I'm struggling with it. The entire 8 sentence in itself has different pieces to it. 9 While I could respond to some of it, I can't respond 10 to all of it. 11 Again, I'm not trying to be difficult. 12 As we've said numerous times, we're going to get to 13 peel this onion at some point; but I don't think it 14 makes a great deal of sense, frankly, to peel a 15 little piece of it now, unless you want a long 16 diatribe on which comma I can really opine on. 17 Q. I want you to let me know whether you can 18 fully answer this question, and it sounds like 19 you're saying no because of attorney-client- 20 privilege grounds. 21 A. Correct. I can't fully answer. 22 Q. Let me move on. 23 Let me just take one little, easy piece 24 of it. Are you friends with Frank McCann?</p>	<p style="text-align: right;">141</p> <p>1 year; and that was in existence for a while. I 2 don't know how long. 3 Q. You would agree, though, that you and your 4 firm were making at least \$48,000 a year per year 5 representing Lawrence in workers' compensation cases 6 prior to August of 2008? 7 A. Correct. 8 Q. With respect to Part D, I think we covered 9 this ground; but you claim that "Plaintiff did not 10 and does not make \$100,000 a year as special counsel 11 to the GLSD to attend meetings, and certainly not to 12 show up to one meeting every two months." 13 A. Correct. 14 Q. But you would agree with me that you did 15 serve as special counsel to the GLSD prior to August 16 23, 2008? 17 A. Yes, that's true. 18 Q. And you were paid on an hourly basis for 19 whatever services you rendered? 20 A. Correct, yes. 21 Q. With respect to the City of Lawrence, it's 22 fair to say that in the time period prior to August 23 of 2008 you or your firm also charged fees and 24 received fees and performed legal services in</p>

<p style="text-align: right;">142</p> <p>1 representing the City in other areas, including work 2 that was performed for the school committee or on 3 projects like you mentioned before with respect to 4 the workforce investment boards? 5 A. You'd have to be more specific, only 6 because I know I did work on the workforce- 7 investment-board issue. 8 I don't know what if anything else I did 9 with respect to the City of Lawrence directly during 10 that time frame; because during that time frame they 11 had a far more robust city attorney's office. 12 And I'm not sure about which time, which 13 year; but at some point in this time frame I think 14 they had five attorneys in that office, including 15 one who is not here today, Jim Bowers. 16 At one point, I think during the 2000s, 17 the city attorney was Charlie Boddy. The primary 18 city attorney was Charlie Boddy, and there were 19 assistants; Rick D'Agostino, Ann Rendazo, Peter 20 Slipp and Jim Bowers were all in the office. 21 So they were doing most of their stuff, 22 as far as I know. 23 Q. Well, let me just ask you this just as a 24 general proposition.</p>	<p style="text-align: right;">144</p> <p>1 correct? 2 A. Yes; but there's also a context issue to 3 that too. 4 Q. What's the context issue that you believe 5 would cause a neutral party listening to the 6 broadcast to believe that something defamatory had 7 been said? 8 A. Because the implication is that I'm doing 9 all this work for the City of Lawrence, and I'm 10 doing this work for Methuen, because I'm politically 11 connected, politically powerful, and having 12 political pull, I think is the term that was used; 13 and there's an implication that I am getting this 14 work because of politics, as opposed to doing, 15 hopefully, good legal work. 16 Q. Just turning back to that case, LaRiviere 17 versus Methuen, it's the fact, as we discussed, that 18 you represented Mr. LaRiviere in a case that was 19 pending in the federal court for a couple years, and 20 went through a full jury trial? 21 A. That's correct. 22 Q. And not to cast aspersions, there was a 23 statement in the broadcast that you lost that case; 24 and the fact is that your party, your client, didn't</p>
<p style="text-align: right;">143</p> <p>1 Isn't it the case that you did perform 2 other legal work for the City of Lawrence prior to 3 2008, for which you were paid, that did not include 4 the workers' compensation cases? 5 A. The only thing I can think of at the moment 6 is the WIB. There may have been some other stray 7 issue, but I can't think of it at the moment. That 8 was a slightly different kind of issue. 9 Q. I'm sure the City and you would have 10 records pertaining to what amounts you were paid in 11 the year prior to 2008. 12 A. Yes, I imagine so. 13 Q. And if the privilege issue weren't an 14 issue, would you be prepared to produce those 15 documents that would indicate how much you earned 16 from the City of Lawrence during the one year prior 17 to August 23, 2008? 18 A. Yes. 19 Q. With respect to this Point E in the amended 20 complaint, you say that you did not represent 21 Methuen in LaRiviere versus Methuen, Federal 22 District Court Docket 05-11579. 23 The only thing incorrect about that 24 statement is that you did not represent Methuen;</p>	<p style="text-align: right;">145</p> <p>1 prevail in that case? Correct? 2 A. You are trying to be diplomatic about it, 3 but that is correct. 4 Q. With regard to Part F of this complaint, 5 you take issue with a statement that says, "And it's 6 going to be interesting to see if there's going to 7 be a BBO complaint. My understanding is that it's 8 something that's being bantered about and is very 9 possible." 10 And you take issue with that statement, 11 correct? 12 A. Absolutely. 13 Q. No BBO complaint has ever been filed 14 against you concerning the Andrea Traficanti case? 15 A. Not that I'm aware of, no. 16 Q. Do you have any information as to whether 17 or not the City of Lawrence was considering filing 18 such a complaint? 19 A. I have no knowledge as to that whatsoever. 20 Q. Would it be fair to say that you don't know 21 one way or the other whether anybody within the City 22 of Lawrence was considering such a filing? 23 A. I think that the broadness of "anybody 24 within the City of Lawrence" makes it difficult to</p>

<p style="text-align: right;">146</p> <p>1 answer.</p> <p>2 I am aware of no information that that</p> <p>3 is something that was discussed or bantered about or</p> <p>4 anything like that. I would certainly contend that</p> <p>5 it had no merit whatsoever.</p> <p>6 And it's now been certainly, whatever,</p> <p>7 five-plus years since some of this stuff took place;</p> <p>8 since the broadcast took place. Longer than that</p> <p>9 since the Traficanti case.</p> <p>10 Q. Just switching to the answers to</p> <p>11 interrogatories that were marked.</p> <p>12 Basically, Interrogatory 5 asks about</p> <p>13 which statements you allege were false and</p> <p>14 defamatory on Page 6 of that document.</p> <p>15 In the third paragraph at the bottom of</p> <p>16 this answer, you say, "All of these stories have</p> <p>17 been referenced on multiple occasions on the Paying</p> <p>18 Attention radio show on WCAP."</p> <p>19 What's the basis of that statement in</p> <p>20 the answer to the interrogatory?</p> <p>21 A. Listening to many of the Paying Attention</p> <p>22 radio shows.</p> <p>23 Q. Have you been listening to the broadcasts</p> <p>24 live?</p>	<p style="text-align: right;">148</p> <p>1 deposition. I just want to look over my documents</p> <p>2 and see if there's anything I missed.</p> <p>3 Let's go off the record.</p> <p>4 (Recess)</p> <p>5 MR. DICKISON: I'm going on the record</p> <p>6 to say that I'm suspending the deposition on behalf</p> <p>7 of my client, Merrimack Valley Radio, LLC, for the</p> <p>8 day; and I have your agreement, Bill, that once we</p> <p>9 get the privilege issues sorted out you'll</p> <p>10 voluntarily appear at another deposition so we can</p> <p>11 hash out the rest?</p> <p>12 THE WITNESS: Yes.</p> <p>13 And absent some extraordinary</p> <p>14 circumstance, I can't see a reason why we're not</p> <p>15 suspending entirely right now; because we're going</p> <p>16 to come back and redo this, and it's going to be a</p> <p>17 lot cleaner and easier once we get down to what can</p> <p>18 and cannot be said.</p> <p>19 So it's my intent that we're done for</p> <p>20 today.</p> <p>21 MR. DICKISON: I'm done.</p> <p>22 MR. CARUSO: While you're here, I've got</p> <p>23 some non-privileged stuff that I thought I'd just</p> <p>24 get off the table and get out of the way.</p>
<p style="text-align: right;">147</p> <p>1 A. Sometimes.</p> <p>2 Q. And have you also been downloading the</p> <p>3 broadcasts?</p> <p>4 A. Yes.</p> <p>5 Q. Are there certain broadcasts on the Paying</p> <p>6 Attention program that are broadcast on WCAP, to</p> <p>7 your knowledge, that refer to articles that</p> <p>8 Mr. Duggan has published about you?</p> <p>9 A. Yes.</p> <p>10 Q. Are you going to be attempting to recover</p> <p>11 damages on the basis of those broadcasts?</p> <p>12 A. Yes.</p> <p>13 Q. Can you be more specific, as you sit here</p> <p>14 today, as to exactly which radio broadcasts you're</p> <p>15 referring to?</p> <p>16 A. As I sit here, no; but I believe I have</p> <p>17 downloads of all of the relevant broadcasts. And</p> <p>18 again, with respect to document production, I would</p> <p>19 certainly agree to produce those.</p> <p>20 The problem now is simply that they are</p> <p>21 too voluminous. I don't even know if they'll fit on</p> <p>22 a DVD. It's a lot of stuff.</p> <p>23 Q. Let me take a quick break at this point,</p> <p>24 take a minute, and suspend my portion of the</p>	<p style="text-align: right;">149</p> <p>1 THE WITNESS: Well, you're going to be</p> <p>2 at least a period of time.</p> <p>3 MR. CARUSO: Forty minutes, 45 minutes.</p> <p>4 THE WITNESS: I can see no reason why</p> <p>5 we're not done right now.</p> <p>6 MR. CARUSO: I'd like to ask those</p> <p>7 questions, because I'm here. Any objection to that?</p> <p>8 THE WITNESS: I object to it. We're all</p> <p>9 coming back.</p> <p>10 Could we go off the record for a second?</p> <p>11 (Discussion off the record)</p> <p>12 (3:10 p.m.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

Exhibits: 5-9

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COMMONWEALTH OF MASSACHUSETTS

Essex County

Superior Court

WILLIAM H. DiADAMO,

Plaintiff

vs.

Docket No. 08-1931D

THOMAS J. DUGGAN, JR.,

VALLEY PATRIOT, INC.,

MERRIMACK VALLEY RADIO, LLC,

MICHAEL SWEENEY,

WILLIAM MANZI, and

THOMAS SCHIAVONE,

Defendants

CONTINUED DEPOSITION OF WILLIAM H. DiADAMO

Tuesday, February 4, 2014, 10:36 a.m.

Lawson & Weitzen, LLP

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Boston, Massachusetts

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<p style="text-align: right;">154</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 William H. DiAdamo, Esq.</p> <p>4 William H. DiAdamo, LLC</p> <p>5 40 Appleton Street</p> <p>6 Lawrence, Massachusetts 01840</p> <p>7 978-229-2345 Fax 888-345-1124</p> <p>8 william@diadamo.com</p> <p>9 appearing pro se</p> <p>10</p> <p>11 Peter J. Caruso, Esq.</p> <p>12 Caruso & Caruso, LLP</p> <p>13 68 Main Street</p> <p>14 Andover, Massachusetts 01810</p> <p>15 978-475-2200 Fax 978-475-1001</p> <p>16 pcarusor@carusoandcaruso.com</p> <p>17 for Thomas J. Duggan, Jr.</p> <p>18</p> <p>19 Allan L. Knowles, Esq.</p> <p>20 The Law Office of Allan Knowles</p> <p>21 300 Brickstone Square, Suite 201</p> <p>22 Andover, Massachusetts 01810</p> <p>23 781-850-6394 (Cell)</p> <p>24 knowleslawoffice@aol.com</p> <p>for Valley Patriot, Inc.</p> <p>Joshua Segal, Esq.</p> <p>Lawson & Weitzen, LLP</p> <p>88 Black Falcon Avenue, Suite 345</p> <p>Boston, Massachusetts 02210</p> <p>617-439-4990 Fax 617-439-3987</p> <p>jsegal@lawson-weitzen.com</p> <p>for Merrimack Valley Radio, LLC</p>	<p style="text-align: right;">156</p> <p>1 PROCEEDINGS - 10:36 a.m.</p> <p>2 -----</p> <p>3 WILLIAM DIADAMO, sworn previously</p> <p>4 -----</p> <p>5 CONTINUED EXAMINATION</p> <p>6 BY MR. SEGAL:</p> <p>7 Q. Good morning, Mr. DiAdamo. My name is</p> <p>8 Joshua Segal. I represent Merrimack Valley Radio</p> <p>9 LLC, which is WCAP 980. This is day two of your</p> <p>10 deposition. You are still under oath?</p> <p>11 A. Yes.</p> <p>12 Q. Good. In terms of stipulations, the same</p> <p>13 as we had the last time still work for you? You</p> <p>14 reserve your right to object; motions to strike</p> <p>15 saved until later; 30 days to sign, longer if that's</p> <p>16 what it ends up taking; and no notary requirement?</p> <p>17 A. We can waive the notary. The only other</p> <p>18 thing I would add, which I believe we discussed the</p> <p>19 last time, unfortunately we are still left with the</p> <p>20 attorney-client issues. We didn't attempt to,</p> <p>21 between the last deposition and this deposition, to</p> <p>22 streamline or clarify that with the court. The</p> <p>23 court has sent us, to say in my very overview view,</p> <p>24 that we are going to more finely articulate what the</p>
<p style="text-align: right;">155</p> <p>1 APPEARANCES (Continued);</p> <p>2 Steven J. Brooks, Esq.</p> <p>3 Brooks & Crowley LLP</p> <p>4 The Ames Schoolhouse Office Center</p> <p>5 450 Washington Street, Suite LL9</p> <p>6 Dedham, Massachusetts 02026</p> <p>7 781-251-0555 x106 Fax 781-251-0552</p> <p>8 stevenbrooks@brooksandcrowley.com</p> <p>9 for Michael Sweeney</p> <p>10</p> <p>11 Adam G. Cohen, Esq.</p> <p>12 Davids & Cohen</p> <p>13 40 Washington Street, Suite 20</p> <p>14 Wellesley, MA 02481</p> <p>15 781-416-5055 Fax 781-416-4344</p> <p>16 acohen@davids-cohen.com</p> <p>17 for William Manzi</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20</p> <p>21 Thomas J. Duggan, Jr.</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">157</p> <p>1 privilege issues are and the court will address them</p> <p>2 at some point. The attorney-client thing is still</p> <p>3 out there, is all I'm suggesting.</p> <p>4 Q. You are here pro se today?</p> <p>5 A. I am.</p> <p>6 Q. Is that by choice?</p> <p>7 A. Yes. Let me be clear about that so that</p> <p>8 there's no misunderstanding. There are things that</p> <p>9 I am a witness to and for. I am also an attorney.</p> <p>10 I have also prosecuted this case. So there are</p> <p>11 things that I can and will answer certainly in my</p> <p>12 capacity as a witness. There are other things that</p> <p>13 I may not answer, depends on the question, in my</p> <p>14 capacity as an attorney.</p> <p>15 Q. Did you review day 1 of your deposition?</p> <p>16 A. I did.</p> <p>17 Q. When was that?</p> <p>18 A. I reviewed it again last night, yesterday.</p> <p>19 Q. Anything from that deposition that you wish</p> <p>20 to change your answers to?</p> <p>21 A. Let me be clear. I read it quickly. There</p> <p>22 was a place where I think I said blah, blah, blah,</p> <p>23 not something. And I think I meant to say blah,</p> <p>24 blah, blah yes something. I didn't go back and note</p>

<p style="text-align: right;">158</p> <p>1 it. I will go and do that when I do an errata 2 sheet. I didn't have one. I have the Min-U-Script 3 copy. It didn't have an errata sheet. 4 Thinking back on it, I was not concerned 5 about it because I thought I would do an errata 6 sheet when we completed the deposition, not each 7 day. I don't know if you received a copy of an 8 errata sheet. You seem to suggest that you might 9 have. If you did, I can do that. 10 Q. Is there anything that you want to add to 11 your testimony from day one? 12 A. Yeah. But I assume that we are going to 13 cover some ground here, so rather than me making a 14 couple of speeches, it probably makes sense for me 15 to answer some questions and not have me go through. 16 I can if you like, but I don't know that it makes 17 sense going through page by page. 18 MR. SEGAL: Mark this as the next 19 exhibit, please, which is Exhibit 5. 20 (Marked, Exhibit 5, Rulings and order.) 21 Q. I'm putting the next exhibit in front of 22 you. Do you recognize this document? 23 A. Yes. 24 Q. What is it?</p>	<p style="text-align: right;">160</p> <p>1 It seems that that was missed or avoided. 2 And, in fact, I speculate, but I also 3 know that there was -- we are currently pending in 4 the C session in the Essex Court. The C session is 5 in abeyance at the moment, if that's the right word, 6 and has been morphed over or merged partially with 7 the D session. It is unclear to me what papers 8 exactly the judge had in front of him. Reading the 9 order, I'm frankly assuming that the judge did not 10 have or did not address your motion to compel, my 11 motion for a protective order, but really went back 12 to the 2008 motion and dealt only with that. And 13 that's why I think this is sort of still a bit of a 14 mess. 15 Q. You stated that the city has waived the 16 privilege? 17 A. Yes. 18 MR. CARUSO: Objection. 19 Q. When did the city waive the privilege? 20 A. Months and months ago. I don't remember 21 the exact date off the top of my head. 22 Q. Do you remember the season? 23 A. Well, there were discussions about it for a 24 long time. There was a formal waiver of the</p>
<p style="text-align: right;">159</p> <p>1 A. This is, I believe, the rulings and order 2 we received a couple of weeks ago. It is January 3 15, 2014. I have some comments about it. You asked 4 me if I recognize it and I do. 5 Q. I direct your attention to Paragraph 2. 6 Please review that. 7 A. (Witness complies.) 8 Q. By Paragraph 2, I mean point 2, which is 9 multiple paragraphs. 10 A. Yes. 11 Q. Has this paragraph changed your stance on 12 any of the privilege issues in this case? 13 A. It has unfortunately, I think, confused 14 things a bit in the sense that, as I have said 15 before, the city has waived the privilege. My 16 mandate, however, was because of the pendency of the 17 Traficanti case that they asked me to seek, as I 18 did, a protective order. 19 Unfortunately, and I don't know exactly 20 what happened, but it appears that the judge made a 21 ruling on the motion that was filed back in 2008 and 22 did not address really at all the arguments that 23 were proffered in your motion to compel and my 24 cross-motion, and other people had added in as well.</p>	<p style="text-align: right;">161</p> <p>1 privilege, I don't know, several months ago, many 2 months ago. 3 Q. How was that formal waiver made? 4 A. In writing. 5 Q. By whom? 6 A. By the mayor of the city. 7 Q. To whom? 8 A. It was a general waiver given to me. 9 Q. In writing? 10 A. Yes. I have that. That was represented to 11 everyone here when we were in court back in October. 12 It was indicated that Charlie Boddy -- you may 13 recall Charlie was in the courtroom when we went in 14 front of Judge Lang and indicated the city waived 15 the privilege. However, the concern was letting 16 what was happening in this case potentially impact 17 one way or the other unfairly the pending Traficanti 18 matter. As you recall the discussion, as I remember 19 it anyway, I think we went in on October 1st on the 20 motion and my cross-motion for protective order. 21 And -- I'm waiting for this conversation 22 to die down over here. 23 At that point there was some sort of an 24 agreement that we would put together a protective</p>

<p style="text-align: right;">162</p> <p>1 order. Everybody was there. Everybody agreed to 2 it. We were then scheduled to come back in a couple 3 of weeks. When we came back in a couple of weeks, 4 Attorney Caruso at that point had changed his stance 5 and would not agree to something he had agreed to 6 months before and that's when we decided that we had 7 to respond and refile the motions, et cetera, et 8 cetera. 9 Q. Do you still have a copy of that waiver? 10 A. I do. 11 Q. Can you produce that? 12 A. Yes. It is with the caveat that's been 13 represented to me that that waiver exists but I am 14 at least to seek the court's protection until it 15 would not interfere unduly with the Traficanti 16 matter. 17 Q. Including the production of the waiver 18 itself? 19 A. No. I believe you can have the document. 20 It is with the caveat, I'm delivering it with the 21 caveat as to what has been explained to me. 22 Q. Which mayor signed that? 23 A. Mayor Lantigua. 24 Q. Have you spoken to anyone in the new</p>	<p style="text-align: right;">164</p> <p>1 current mayor. 2 Q. Have you spoken about your lawsuit against 3 these defendants with the current mayor? 4 A. I'm reluctant to answer because I don't 5 know if somebody at the city might be asserting some 6 privilege that would be an indication of 7 conversations that took place. 8 Q. Just yes or no but not as to the substance 9 of the conversation but the general topic, did you 10 have a conversation with the mayor about your 11 lawsuit against the defendants in which this 12 deposition is taking place? 13 A. Ask me the question again, please. 14 MR. SEGAL: Can you read it back. 15 (Question read by the reporter.) 16 A. Since the administration, since this 17 administration came into office? 18 Q. Sure, start with that. 19 A. I don't believe so. 20 Q. Prior to this administration coming into 21 office? 22 A. I believe that -- well, I have, in fact, 23 spoken to this current mayor. I believe that he is 24 familiar with this action.</p>
<p style="text-align: right;">163</p> <p>1 administration since the new administration took 2 over about this privilege? 3 A. Yes. 4 Q. Who was that? 5 A. Who have I spoken to? I have spoken to -- 6 I've spoken to Charles Boddy. I've spoken to Raquel 7 Ruano. Put a time frame on it. 8 Q. Since the new administration came into 9 office. 10 A. I've spoken to Charles Boddy and Raquel 11 Ruano. I can't think of anybody else, but I may 12 have. 13 Q. When were those conversations? 14 A. Over the last couple of weeks. Attorney 15 Ruano I have not spoken to until yesterday. Charles 16 Boddy I've spoken to a few times. I learned that 17 Frank Bonet had received a deposition notice. I had 18 a brief conversation with him at some point. There 19 have been other conversations with other people who 20 are generally aware of what's going on. 21 Q. Have you discussed this action with the 22 current mayor? 23 A. I'm just trying to parse out what part may 24 or may not be privileged. I've spoken to the</p>	<p style="text-align: right;">165</p> <p>1 Q. And just for purposes of a complete record, 2 who is the current mayor? 3 A. Daniel Rivera. 4 Q. Do you still represent the City of Lawrence 5 today? 6 A. Yes. 7 Q. Do you represent the new mayor personally? 8 A. No. You said personally? 9 Q. In a personal capacity. 10 A. No. 11 Q. Shifting gears a little bit and I'll do a 12 bit of cleanup of the first day of the deposition. 13 If this is scattered and doesn't make sense, I 14 apologize for that ahead of time. 15 Did you have a written fee agreement 16 with the City of Lawrence concerning your 17 representation of the city prior to 2008? 18 A. Yes. 19 Q. When was that fee agreement executed, 20 roughly, what year? 21 A. There have been a couple. I think I 22 started doing work for the city I think in 2002. 23 I'm not sure that was the first time. I can't be 24 positive.</p>

<p style="text-align: right;">166</p> <p>1 Q. How often did you execute fee agreements 2 with the city thereafter? 3 A. I can't remember. 4 Q. Rough number, are we talking five, 50 or a 5 hundred? 6 A. It is not 50 or a hundred. Less than that, 7 it is a smaller number. 8 Q. Are we talking annually? 9 A. It really depended. Things would come up. 10 It depended. There were things where I handled, you 11 know, significant cases over a long period of time. 12 There were things where I handled smaller things for 13 a brief period of time. Some of it was quick, and 14 ad hoc advice. It is all over the board. 15 Q. Did you have a fee agreement with the city 16 specifically concerning your handling of their 17 workmen's compensation issues prior to 2008? 18 A. Yes. 19 Q. Was that one agreement or multiple 20 agreements prior to 2008? 21 A. There had been a number executed over that 22 period. I don't remember how many or how long they 23 were for. 24 Q. Was there one governing representation</p>	<p style="text-align: right;">168</p> <p>1 Q. Yes. 2 A. It all melds together. I'm trying to parse 3 it out. Let me put it this way. I cannot recall 4 off the top of my head any particular matters that I 5 handled for the city aside from those two things. 6 There may have been others. Honestly I'm just not, 7 without looking through my records, I can't 8 remember. But those were the two primary things 9 that I did. 10 Q. You mentioned there were times that you 11 gave ad hoc advice? 12 A. Yeah. That was sometimes during the 13 Sullivan administration I would be involved in a 14 meeting and something would come up and I was a 15 lawyer. Sometimes people think that if you go to 16 law school that you know everything that there is to 17 know about the law. Questions would come up. 18 Sometimes there were discussions. I wasn't handling 19 the case of Smith versus the City of Lawrence, for 20 example, during that time period. There was nothing 21 formal. 22 Q. To the best of your recollection, at least 23 in terms of litigation any time you had an 24 appearance in representing the city it was either in</p>
<p style="text-align: right;">167</p> <p>1 during the time you handled the Traficanti matter? 2 A. Yes. I believe there was. I say that. I 3 know that there were agreements. I am pretty sure 4 that I had an agreement through that period. I 5 can't be a hundred percent sure. I'm reasonably 6 sure there was. I can't remember the last time I 7 saw it. Certainly I had an agreement with the city 8 where I was doing their workers' compensation during 9 that time. 10 Q. I believe you testified during day one that 11 you were paid a flat fee for that representation? 12 A. Correct. 13 Q. The amount was how much, do you recall? 14 A. 48,000. 15 Q. So you began representing the city in 2002 16 and continued uninterrupted until the middle of 17 2008; is that correct? 18 A. Approximately. 19 Q. Approximately. 20 What types of matters, in addition to 21 workers' compensation defense and representing the 22 work force investment board, did you handle for the 23 city? 24 A. During 2002 to 2008?</p>	<p style="text-align: right;">169</p> <p>1 defending a workers' compensation action or 2 defending the work force investment board? 3 A. The work force investment board was not a 4 litigation, per se. That was just sort of a 5 structural matter. 6 Q. Were there any other structural matters 7 that you, to use your term, that you represented the 8 city during that period? 9 A. The city, no. The reason I'm having some 10 trouble separating things out is, for example, when 11 all of the GLSD stuff was going on, the city is an 12 integral member of the GLSD. It is the largest 13 single member of the GLSD, if I can say it that way. 14 So that when stuff would come up with them, some of 15 that stuff would be focused on Lawrence, for 16 example. 17 When the GLSD had an issue with the 18 Department of Justice over a consent decree, one of 19 the driving forces in terms of the response to that 20 was dealing with the City of Lawrence. So was I 21 representing the City of Lawrence? Well, they are a 22 member of the GLSD. They are separate entities 23 entirely, but I do know I did a lot of work with the 24 city, but I was talking also to Methuen and Andover</p>

<p style="text-align: right;">170</p> <p>1 and North Andover. The city had more skin in the 2 game, as it were, so that they were an important 3 piece of that. My client was the GLSD. 4 Q. Did you ever represent the city prior to 5 2008 in any transactional work? 6 A. Real estate or anything like that? 7 Q. Yes. 8 A. No, never did anything like that, to my 9 knowledge. 10 Q. Your representation of the city ended 11 around the middle of 2008? 12 A. The very beginning of June 2008. 13 (Mr. Knowles has arrived.) 14 Q. You began representing the city again 15 sometime in 2010; is that right? 16 A. Yes. 17 Q. When in 2010? 18 A. I think formally it was, I believe it was 19 July 2010. I'm not a hundred percent positive of 20 that but it was in that neighborhood. 21 Q. Has your representation of the city since 22 that time changed at all from what it was prior to 23 2008? 24 A. Yes.</p>	<p style="text-align: right;">172</p> <p>1 City of Lawrence attorney's office. I know he 2 subsequently filed a lawsuit against the City of 3 Lawrence. Ann Rendazo I believe was part-time but 4 she may have been full-time at some point during 5 this time period. She stayed with the City of 6 Lawrence for another year or two. There was Rick 7 D'Agostino. He was the city assistant attorney. He 8 worked for the city for a period of time. And then 9 he went out on workers' compensation. I should 10 remember the date. I'm not a hundred percent sure, 11 but I believe it was around the beginning of 2011. 12 I should remember it but I don't. I'm not a hundred 13 percent positive. He stopped working. He stopped 14 working in the city's attorney's office at that 15 time. 16 Q. How did that affect your responsibilities 17 vis a vis the city? 18 A. They went from having five or nearly five 19 full-time employees -- as I said, I think Jim Bowers 20 was part-time. Anne may have been part-time. But 21 they went from a larger office to at that point -- 22 Ann Rendazo was working part-time; and Charlie Boddy 23 was working full-time. As a result of that, I was 24 asked to handle some of the cases that were</p>
<p style="text-align: right;">171</p> <p>1 Q. How? 2 A. Well, in 2010 I was contacted by the city 3 and I started doing workers' compensation work for 4 the city again. After that -- I don't remember the 5 time. Just to clarify so that it is clear on the 6 record, and hopefully this doesn't sound mushy or 7 inconsistent. I know everybody here knows this but 8 for purposes of the record, my office is directly 9 next to City Hall. I see a lot of people around. 10 So I don't remember exactly what happened when. 11 Everything is organic and changes and conversations 12 sometimes meld into each other. 13 For some time I was doing only comp for 14 the city for a period of time. There's not a very 15 straight line here, but at some point the city 16 attorney's office decreased in size. A number of 17 people left. I don't know who left and in what 18 order. I really wasn't paying attention at this 19 point. Jim Bowers, who represents Tom Schiavone in 20 this case, was a part-time city attorney for a 21 period of time. He left sometime in 2010 I think. 22 It could have been earlier or later than that. 23 That's the best of my memory. 24 Peter Slipp also left the employ of the</p>	<p style="text-align: right;">173</p> <p>1 overflowing, so I did. 2 Q. What types of cases were those? 3 A. I think it originally started out -- let me 4 back that up. I thought of something I haven't 5 thought of before. There was a workers' 6 compensation case that was filed shortly after Mayor 7 Lantigua took office. I was defending that case. 8 That case also had a component of an MCAD complaint 9 and eventually it morphed into a superior court 10 case. And since I was handling the workers' comp 11 portion of things, they asked me to handle the MCAD 12 and subsequently the superior court case. I don't 13 remember the exact timing on that, but that would 14 have been in 2010. I'm sure that the comp case came 15 pretty quickly. The MCAD cases came I think 16 reasonably quickly thereafter. That would have been 17 in 2010. The superior court case was filed. I 18 remember it was October, but I can't remember if it 19 was October 2010 or October 2011. I'm just saying 20 there's a lot going on. Some of it runs together. 21 Q. What was the name of that case? 22 A. There were actually two; the workers' comp 23 case involved a woman named Judy Perkins. But the 24 MCAD cases were for Judy Perkins and Dora Marco,</p>

<p style="text-align: right;">174</p> <p>1 both of whom had worked in the personnel office when 2 Mike Sullivan was mayor. 3 Q. So that was the beginning of your expanded 4 role with the city? 5 A. Yeah. I think that was probably the first 6 thing. And then from there other things grew out of 7 that. Again, it was very organic. I know, for 8 example, at some point I started handling some of 9 the -- there were a number of well publicized 10 excessive-use-of-force cases against several police 11 officers in the city. Eventually I got involved in 12 those as well. I can't remember exactly the 13 progression of all of this. As I said, it sort of 14 built organically over a period of time. 15 Q. Was it all litigation? 16 A. Some of it is -- some of my work for 17 them -- I can't say it was not litigation. Not 18 everything had to do with a case that had been 19 filed. It wasn't always hey, we received a 20 complaint, please handle this. Sometimes there are 21 things that are contentious or prelitigation that 22 aren't necessarily in suit. 23 Q. Is it fair to say that the work you did for 24 the city was all adversarial in nature?</p>	<p style="text-align: right;">176</p> <p>1 I received. Depending on the case and the 2 situation, things were handled slightly differently. 3 I can make up examples. It was not I'm 4 going to print out every single paper. If you 5 emailed something and it said thanks Bill, I would 6 not print it and put it in the file. It didn't seem 7 to be worth putting on a piece of paper. Meanwhile, 8 there were things that would come in documentary 9 form that would not necessarily need to get scanned 10 in. I receive a notice of a status conference in 11 March; I would note it in my calendar but I wouldn't 12 necessarily scan it and throw it on my computer. 13 Q. Do you ever purge your electronic files? 14 A. Do I purge them? I suppose I'm not exactly 15 sure what you mean by purge. Do I erase things? 16 Not intentionally, no. I will under the right 17 circumstances close files. I will take things off 18 of what -- something I'm looking at in particular so 19 that I don't have every piece of paper from every 20 case that I'm working on on my computer at any given 21 moment. Things will be offloaded, archived, things 22 like that. 23 Q. You mentioned a calendar. What were your 24 calendar practices in 2008?</p>
<p style="text-align: right;">175</p> <p>1 A. As far as I can remember. It all had to do 2 with problems. To distinguish, it was never 3 transactional. I wasn't doing any tax takings or 4 real estate or anything like that. 5 Q. I'd like to shift gears a little bit again 6 back to prior to August of 2008, a good a date as 7 any in this case. How do you handle filing in your 8 office at that time? 9 A. How did I? 10 Q. Did you maintain paper files? 11 A. Yes. 12 Q. Did you maintain electronic files? 13 A. In some cases more than others, yes. 14 Q. Was there a method to that? 15 A. I'm not sure I understand the question. 16 Q. You said in some cases more than others you 17 had better electronic files. Is that fair? 18 A. Yeah. Sometimes if I knew something was 19 going to be bigger or more complicated, some of it 20 was technology. Things got easier to scan over a 21 period time. As I got proficient and hopefully 22 efficient, I would scan more and more things in. I 23 would not scan everything that came into the office. 24 Nor would I, for example, print out every email that</p>	<p style="text-align: right;">177</p> <p>1 A. Generally speaking, I keep a calendar on my 2 computer. 3 Q. Does it include both work and personal 4 commitments? 5 A. Mm-hmm. 6 Q. Is that a yes? 7 A. Yes. 8 Q. If you -- do you have a process for how you 9 put litigation appearances into that calendar? 10 A. You mean like a status conference on such 11 and such a date? I try to note anything like that 12 on a calendar. Any time I know I need to be 13 somewhere, I try to put it on the calendar. I screw 14 up every once in a while. 15 Q. Do you have any backup calendar system or 16 tickler system or something comparable? 17 A. Yes. 18 Q. What system? 19 A. I have a couple of different systems. By 20 backup calendar tickler system, I am not sure what 21 you mean. 22 Q. In addition to putting court appearances 23 into your calendar, where else do you record court 24 appearances?</p>

<p style="text-align: right;">178</p> <p>1 A. Something like a court appearance I would 2 put in a calendar. If there is something I need to 3 do for a court appearance, if it is a pretrial 4 conference in a case and I know a pretrial 5 conference memo needs to be prepared, then I will 6 probably note it on the calendar. I will also note 7 things just generally on my computer in files. I 8 have a task manager that I use. I also tinker 9 probably a little bit more than I should trying to 10 find the perfect system. It has changed over the 11 years. I've used different task management 12 programs, different text files, to-do lists, 13 different ways to try to keep track of what is a 14 pretty busy schedule.</p> <p>15 Q. Do you still have your calendar from 2008? 16 A. I believe I do, yes.</p> <p>17 Q. I know we have had some issues with 18 document production to date. Is your calendar 19 something that you would be willing to produce? 20 A. I would be willing to produce my calendar 21 with respect to anything that is germane to this 22 lawsuit. I would not produce my calendar that has 23 to do with -- I've got lots of cases on there 24 dealing with lots of things. I would not be willing</p>	<p style="text-align: right;">180</p> <p>1 respect.</p> <p>2 Q. Did you have specific billing software in 3 2008? 4 A. Yes.</p> <p>5 Q. Do you record your time for all hourly 6 matters in that software? 7 A. For all hourly matters? 8 Q. Yes.</p> <p>9 A. Are you asking me for all things that I 10 billed by the hour would I put them in? Yes, 11 generally speaking, yes.</p> <p>12 Q. Did you keep track of your time on 13 contingency cases? 14 A. Sometimes yes, and sometimes no.</p> <p>15 Q. If you did, would it have been in that 16 program? 17 A. Probably.</p> <p>18 Q. Would it have been anywhere else? 19 A. No. Depending on the size or complexity, 20 there were times when I would keep a separate text 21 file on something, for example. I don't remember 22 the timing of this. Sometimes I tinker. So I 23 changed programs a couple of times. And there was a 24 program, for example, that I used for a number of</p>
<p style="text-align: right;">179</p> <p>1 to voluntarily produce that.</p> <p>2 Q. If specifically we asked for a list of all 3 the relevant appearances, meetings, the dates of 4 them, the Traficanti matter, is that something you 5 could produce? 6 A. Yes, those I would be happy to produce. 7 Let me be clear. There would be meetings and 8 discussions that would take place that would not be 9 on that calendar. I would not, for example, if I 10 ran into somebody in the hallway and they said oh, 11 such and such, not necessarily the Traficanti case 12 but something else; if I happen to run into somebody 13 and I had a conversation that I wasn't planning on 14 with somebody about something, I wouldn't go to my 15 calendar and put two hours ago I met with Fred about 16 Barney. If you're asking about things that were 17 normally calendared, a conciliation conference, a 18 hearing, things like that, yes, those are easily 19 ascertainable.</p> <p>20 Q. How did you handle billing in 2008? 21 A. For what? It is a complicated question. 22 Some things are flat fees. Some things are hourly. 23 Some things are contingency. There is every panoply 24 that you can think of is probably involved in some</p>	<p style="text-align: right;">181</p> <p>1 years that is not only no longer supported but no 2 longer works. Technology, things change and get 3 outgrown. I know I had to change a couple of years 4 ago. I don't remember the timing. I know that I 5 changed billing programs a number of times 6 because -- I don't know if you feel this way working 7 in a law firm that I assume at least does some 8 billable hours; none of them have been fabulous. I 9 would mess around with programs in different cases. 10 I've changed a number of times over the years.</p> <p>11 It is organic, again. It wasn't like 12 when I started practicing, I remember a program I 13 used. It is not like I have been using the same 14 program for 20 years.</p> <p>15 Q. Did you also keep track of your time for 16 flat-fee work? 17 A. Generally speaking, no.</p> <p>18 Q. So do you have any records of some of those 19 hallway meetings you described regarding the 20 Traficanti matter? 21 A. Some of them, sure.</p> <p>22 Q. But it is not -- strike that. Is it safe 23 to assume that you wouldn't have gone back and put 24 in your computer that you spent some amount of</p>

<p style="text-align: right;">182</p> <p>1 time, .2, .3 talking to someone about this matter?</p> <p>2 A. That is correct. Usually -- for example,</p> <p>3 if we talked about workers' compensation, it would</p> <p>4 be very infrequent that I would go to talk to</p> <p>5 somebody about one particular matter. Normally at</p> <p>6 any given time there are a bunch of things going on.</p> <p>7 When you check in, it was just efficient to check in</p> <p>8 on a bunch of things. There would be no way to say</p> <p>9 we spent .2 on Fred Jones, .3 on Rhonda Smith. It</p> <p>10 was go in, have a conversation, deal with a bunch of</p> <p>11 stuff and move on.</p> <p>12 Q. Let's turn to the Traficanti matter. When</p> <p>13 did you first learn of the Andrea Traficanti matter</p> <p>14 against the City of Lawrence?</p> <p>15 (A recess was taken.)</p> <p>16 Q. Before the break I said let's turn to the</p> <p>17 Andrea Traficanti matter. When did you first learn</p> <p>18 of Andrea Traficanti's workers' compensation claim</p> <p>19 against the City of Lawrence?</p> <p>20 A. I can't be sure of the exact date but I</p> <p>21 believe it was in March of 2007.</p> <p>22 Q. Who was mayor at the time?</p> <p>23 A. Michael Sullivan.</p> <p>24 Q. What was the nature of her claim against</p>	<p style="text-align: right;">184</p> <p>1 That was the claim.</p> <p>2 Q. You said you first learned of her claim in</p> <p>3 March 2007?</p> <p>4 A. Yes.</p> <p>5 Q. When did you first make the claim against</p> <p>6 the city?</p> <p>7 A. To my memory, in March of 2007.</p> <p>8 Q. When were you first asked to represent the</p> <p>9 city in that action, in defense of that action?</p> <p>10 A. At that time.</p> <p>11 Q. How did that work in March of 2007? How</p> <p>12 did you learn about a new case against the city and</p> <p>13 then he asked to defend them in that action?</p> <p>14 A. There could be any number of ways. An</p> <p>15 email over to me. Let's back it up. People would</p> <p>16 sometimes file injury reports. To give you an</p> <p>17 example, because I'm not sure how familiar you are</p> <p>18 with the process, so just in general; these are</p> <p>19 placeholder names that I'm making up.</p> <p>20 Bob Smith breaks his hand using a</p> <p>21 jackhammer. I may find out about it that day. It</p> <p>22 is not necessarily a workers' comp case that day.</p> <p>23 He may be out of work for a couple of days and may</p> <p>24 be able to come back to do something else. While it</p>
<p style="text-align: right;">183</p> <p>1 the city?</p> <p>2 A. Well, let me just give you a general caveat</p> <p>3 and I'll answer the question. The general caveat is</p> <p>4 I'm trying to be careful about parsing what is and</p> <p>5 what is not public record and what is and what is</p> <p>6 not known. It is complicated, in my opinion, by the</p> <p>7 fact that with respect to workers' compensation that</p> <p>8 there are things that are both attorney-client</p> <p>9 privilege as well as there are medical issues that</p> <p>10 have HIPAA-related problems. To my knowledge, when</p> <p>11 you file a comp case inevitably there are medical</p> <p>12 records that are at issue. I believe that there are</p> <p>13 HIPAA-related questions. So I can answer your</p> <p>14 question, but I'm letting you know going down the</p> <p>15 list, I'm not comfortable with what I can say</p> <p>16 without getting in trouble.</p> <p>17 That said, it was essentially a</p> <p>18 stress-related claim. There was not a physical</p> <p>19 injury, to my knowledge. It was a mental,</p> <p>20 psychological injury. It was not your typical</p> <p>21 broken arm kind of case.</p> <p>22 Q. Stress caused by the employment?</p> <p>23 A. Yes. By definition, a workers' comp case</p> <p>24 the injury must be arising out of the employment.</p>	<p style="text-align: right;">185</p> <p>1 is work related and his medical bills would be paid</p> <p>2 if it was a work-related injury, if he's back to</p> <p>3 work then it is a different sort of circumstance</p> <p>4 than somebody who is injured and is going to be out</p> <p>5 of work for a protracted time. After that, there</p> <p>6 are a whole bunch of different kinds of comp cases.</p> <p>7 Some cases are accepted cases, if there are 50</p> <p>8 people standing around and they all see Bob Smith</p> <p>9 jackhammering away and something kicks up and he</p> <p>10 breaks his hand and everybody agrees the broken hand</p> <p>11 is related to the jackhammer which is related to him</p> <p>12 working for the city, then that's an accepted case</p> <p>13 and it gets dealt with in a particular way.</p> <p>14 Again making stuff up. Some guy comes</p> <p>15 in one day, or to be different we'll use a woman; a</p> <p>16 woman comes in one day and says oh, I slipped and</p> <p>17 fell at City Hall two weeks ago and now my back</p> <p>18 hurts and I can't work. That may not be an accepted</p> <p>19 case. There may be questions about whether or not</p> <p>20 that actually happened. In some cases I may not</p> <p>21 learn about it immediately. Some cases I may learn</p> <p>22 about it within an hour of it happening, depending</p> <p>23 on the severity or the questions. I may learn about</p> <p>24 it by email, a phone call, a visit. I found out</p>

<p style="text-align: right;">186</p> <p>1 about stuff because I happen to be at City Hall and 2 they say oh, this happened. There was no formal 3 pipeline that we would do X, Y, Z in a particular 4 order. 5 Q. How did you first learn about 6 Ms. Traficanti's claim? 7 A. I believe it was a conversation that I had 8 with somebody at City Hall. 9 Q. Who was that? 10 A. I believe the first person I heard it from 11 was Judy Perkins. I'm not a hundred percent sure of 12 that. 13 Q. What was Ms. Perkins' role? 14 A. She changed title a couple of times. I 15 believe her formal title was, at that time was 16 benefits coordinator. Some background on that is 17 that Ms. Perkins was my primary liaison with the 18 city for workers' compensation cases during that 19 time period. She was not the only person that I 20 spoke to. She was technically in the flow chart or 21 the org chart a member of the personnel department. 22 For city side cases, I would deal primarily with 23 her. 24 For example, the school department is a</p>	<p style="text-align: right;">188</p> <p>1 I'm being told things by city employees. I think I 2 can explain that I was aware that she had not been 3 at work for some period of time. The reason -- I'm 4 not sure how I knew that at this point. At the time 5 it was of almost zero relevance to me. It was 6 anecdotal, somebody hasn't been at work kind of 7 conversation. I don't remember the context. It was 8 not anything that concerned me. At that point 9 despite some of the things alleged here, I had 10 little or no relationship with Andrea Traficanti. I 11 could have picked her out of a line-up and knew 12 generally who she was, but she was not somebody who 13 I dealt with at all at that point. 14 Q. Was it surprising to you when you learned 15 from Ms. Perkins that Ms. Traficanti had filed a 16 claim? 17 A. I can't fairly answer the question. It has 18 a connotation that I don't think is appropriate. In 19 fairness, I'm not surprised by much. So I wouldn't 20 say surprised is the right word. A lot of stories 21 in the world -- I've seen enough cases to know that 22 there's a lot of stuff that the rest of the world 23 would find surprising that lawyers are like, you 24 know, bad behavior, that's Tuesday.</p>
<p style="text-align: right;">187</p> <p>1 department of the city but is somewhat separate from 2 the city in some respects. I would deal with 3 somebody different at the school department. I 4 would deal with somebody different at DTD. 5 Everybody kind of knew everybody and everything got 6 discussed. In that case I would deal at least 7 initially with Judy Perkins. 8 Q. So you learned about Ms. Traficanti's claim 9 from Ms. Perkins? 10 A. I believe so. 11 Q. In March of 2007? 12 A. Yes. 13 Q. It was in a conversation that you said you 14 had with her? 15 A. Let me just be clear about that. I think I 16 first learned that Ms. Traficanti had made a claim 17 at that time. 18 Q. Did you know previously that she claimed a 19 work-related injury? 20 A. I knew previously that she had not been at 21 the office for some period of time. 22 Q. Did you know why she was not at the office? 23 Did you think she was on vacation? 24 A. Again, we get into a sticky situation where</p>	<p style="text-align: right;">189</p> <p>1 Q. Going back to the conversation that you had 2 with Ms. Perkins when you found out about this 3 claim, was that in person? 4 A. I believe that I had a conversation with 5 her in person. Whether the first conversation took 6 place in person, I cannot be sure. I know I had a 7 personal conversation with her at some point. 8 Q. Can you be more specific about when that 9 point was? 10 A. It would have been in that time period. 11 What I'm saying is that what would happen is that 12 Ms. Perkins would frequently come down to my office 13 because there's a lot of flow of information going 14 back and forth. I don't remember this, but it is 15 possible she could have come down to my office and 16 either said something to me and I could have dealt 17 with it at that moment, or she could have said 18 something to my secretary and she would say this 19 happened, you might want to talk to Judy. I don't 20 remember. There were a whole bunch of ways. I do 21 know that at some point there was a conversation. 22 Q. Did Ms. Perkins give you any documents at 23 or about that time relating to Ms. Traficanti's 24 case?</p>

<p style="text-align: right;">190</p> <p>1 A. I can't be sure, but I would imagine so.</p> <p>2 Q. What documents do you believe those would</p> <p>3 have been?</p> <p>4 A. This is based not on this particular</p> <p>5 incident but based on reality. Normally when a</p> <p>6 claim comes in, it is filed on a particular form</p> <p>7 with the Department of Industrial Accidents. So I</p> <p>8 would have received a copy of a Form 110, which is</p> <p>9 basically a notice, a board form that says somebody</p> <p>10 is making a claim.</p> <p>11 Q. Did Ms. Perkins tell you anything beyond</p> <p>12 the claim had been filed?</p> <p>13 A. Again, I would defer to the privilege.</p> <p>14 Q. I suspect that I will ask a lot of</p> <p>15 questions where that is going to be your response</p> <p>16 just because of the court order.</p> <p>17 A. Yeah. Just to be clear, when we get to</p> <p>18 specific conversations, I'll give you as much as I</p> <p>19 can. It is not my privilege to exercise.</p> <p>20 Q. That's fair. You can just say if you are</p> <p>21 deferring to the privilege or applying the</p> <p>22 privilege, we know what you're talking about.</p> <p>23 A. Yes.</p> <p>24 Q. In addition to Ms. Perkins, at or around</p>	<p style="text-align: right;">192</p> <p>1 probably heard about it from a large number of</p> <p>2 people.</p> <p>3 The people who were actively involved in</p> <p>4 the case would have been Judy Perkins, Frank Bonet,</p> <p>5 Michael Sullivan, Kevin Sullivan. At some point, I</p> <p>6 don't remember exactly where, there was some</p> <p>7 involvement -- I don't remember when that happened.</p> <p>8 Tom Schiavone, Nora Carroll, Michael Sweeney,</p> <p>9 Charlie Boddy.</p> <p>10 Q. Richard D'Agostino?</p> <p>11 A. To my memory, other than some sort of</p> <p>12 general conversation, a gossip kind of</p> <p>13 conversation, I'm not even sure about that, but I</p> <p>14 never had a substantive conversation with Rick</p> <p>15 D'Agostino about the case.</p> <p>16 I'm trying to think of substantive. I'm</p> <p>17 sure I would had some acknowledgement of the</p> <p>18 existence of the case with Frank McCann. Those</p> <p>19 would have been, to the best of my recollection at</p> <p>20 the moment, the primary people I had conversations</p> <p>21 with about the case other than general City Hall</p> <p>22 gossip.</p> <p>23 Q. Before we get into those more substantive</p> <p>24 conversations, what was the general tenor of the</p>
<p style="text-align: right;">191</p> <p>1 the time that the claim was filed, did you discuss</p> <p>2 it with anybody else in the city?</p> <p>3 A. It was discussed with a number of people.</p> <p>4 Q. You discussed it with a number of people?</p> <p>5 A. When you say at that time in March, I know</p> <p>6 I discussed it with a number of people. Over the</p> <p>7 next month or two I discussed it with a significant</p> <p>8 number of people, more so than the normal comp case.</p> <p>9 Q. Who were the people you discussed it with?</p> <p>10 A. Over when?</p> <p>11 Q. Start at the beginning and we'll move</p> <p>12 forward from there.</p> <p>13 A. I had conversations with -- let me go to</p> <p>14 the ones -- Frank Bonet. I believe -- let me parse</p> <p>15 it this way. There were conversations -- I'll try</p> <p>16 to separate them out. There were conversations that</p> <p>17 I would have of a substantive nature with people</p> <p>18 about what had happened and that had to do with the</p> <p>19 actual litigation. It seemed to me very quickly</p> <p>20 everybody in City Hall was aware that there was</p> <p>21 something that was going on. People would</p> <p>22 frequently say something about the Andrea case. I</p> <p>23 would nod politely and acknowledge yes, I heard of</p> <p>24 it. A lot of people were gossiping about it. I</p>	<p style="text-align: right;">193</p> <p>1 City Hall gossip involving this case?</p> <p>2 A. I'm going to defer to the privilege. Some</p> <p>3 of them might not be privileged but I think anybody</p> <p>4 I would have discussed the case with in any way</p> <p>5 would have been a city employee. That would be for</p> <p>6 the city to address. I can't think of anybody aside</p> <p>7 from counsel I would have talked to outside of the</p> <p>8 city. Outside of the city, I'm not sure anybody</p> <p>9 else cared.</p> <p>10 Q. Going down the list of names that you had</p> <p>11 substantive discussions with, I would like to know</p> <p>12 for these people what their role for the city was in</p> <p>13 this matter. Start with Frank Bonet.</p> <p>14 A. Frank Bonet was the personnel director at</p> <p>15 the time. Judy Perkins was the benefits</p> <p>16 coordinator.</p> <p>17 Q. One at a time. What was Frank Bonet's</p> <p>18 involvement in the case?</p> <p>19 A. As personnel director, he was next up on</p> <p>20 the rung in terms of responsibility and reporting by</p> <p>21 name. The general order, though it was not always</p> <p>22 involved, would have been Judy Perkins worked for</p> <p>23 Frank Bonet who presumably reported to the mayor as</p> <p>24 a department head.</p>

<p style="text-align: right;">194</p> <p>1 Q. So you spoke to Frank Bonet. Michael 2 Sullivan was the mayor at that time? 3 A. Yes. 4 Q. Any discussions with him about the matter? 5 A. I did. 6 Q. What were the nature of those 7 conversations? 8 A. Privileged. 9 Q. What was Kevin Sullivan's role? 10 A. Kevin Sullivan was Michael Sullivan's 11 brother. He was a previous mayor. That's it. 12 Q. Did he have any formal role in Michael 13 Sullivan's administration? 14 A. Formal role, no. 15 Q. Was he employed by the city at that time? 16 A. To my knowledge, no. 17 Q. What was the nature of your conversations 18 with him concerning this matter? 19 A. That's a conversation that does not 20 directly involve an attorney-client privilege with 21 the city. However, I have never represented -- 22 strike that. In a previous life my father had 23 worked with Kevin Sullivan as the prior mayor. 24 While I do not believe that my conversations with</p>	<p style="text-align: right;">196</p> <p>1 before this whole thing started. I don't know what 2 she did on a day-to-day basis. 3 She -- let me get back to my story. She 4 worked in DPW for Frank McCann. At some point Frank 5 McCann was suspended by the Sullivan administration 6 for a couple of weeks. I believe the reason was -- 7 and I'm not sure because I was not directly involved 8 in any of this -- but I believe he was suspended for 9 insubordination or some such. That was of little or 10 no importance to me at the time. It is of some 11 importance now because I learned later that Frank 12 McCann had a relationship with Andrea Traficanti. 13 When that relationship started, I don't know. And 14 honestly I don't remember exactly when I found out 15 about it. It was not during this time period. It 16 was later on. I didn't know about this in the first 17 part of 2007. 18 The reason I am bringing Kevin Sullivan 19 into it is because Frank McCann brought suit 20 against, I think, the city, and Michael Sullivan and 21 Kevin Sullivan arising out of his suspension. I'm 22 not sure how possible it is to separate all of those 23 things out. Kevin Sullivan -- to my knowledge, it 24 was originally brought in the federal court; they</p>
<p style="text-align: right;">195</p> <p>1 him are privileged, I don't know if he would have an 2 issue with that. So I'm going to decline to answer 3 that until that can be ascertained. 4 Q. I assume he was not a defendant in the 5 Traficanti workers' compensation case? 6 A. He was not, no. 7 Q. Was he a defendant in a third-party suit? 8 A. He was a defendant in a third-party suit 9 brought later by Frank McCann. You are going to ask 10 me why. Let me explain. This is tricky. I believe 11 this is all public knowledge. 12 Frank McCann was the DPW director. As 13 DPW director he was Andrea Traficanti's boss, I 14 believe. 15 Q. What was her job with the city? 16 A. I can't remember what her title was. She 17 worked in DPW. I don't remember exactly what her 18 title was at this point. I'm sure I could look at a 19 piece of paper. She worked at DPW. She was 20 administrative. She did something of that nature. 21 Q. Fine. 22 A. To my knowledge, she spent a lot of time 23 dealing with neighborhood groups and dealing with 24 issues of that nature. I never had contact with her</p>	<p style="text-align: right;">197</p> <p>1 were sued by McCann in the federal court. That case 2 was dismissed. Nothing happened for a period of 3 time. It was rebrought in the state court. I 4 didn't follow this all the way through. Forgive me 5 if I'm not a hundred percent. I believe that case 6 was dismissed in a federal court under a federal 7 jurisdictional kind of issue. The judge seemed to 8 punt it. It languished for a while, and it was 9 re-brought in the state court. I believe that case 10 was dismissed as well. 11 I don't know the entirety of the nexus 12 between Frank McCann and Andrea during this time 13 period and the fact that there was a subsequent 14 lawsuit by Frank -- there was a relationship with 15 Andrea -- against Michael and Kevin, and the city. 16 Q. Did you represent the city in that lawsuit? 17 A. I didn't. 18 Q. Did you represent Michael Sullivan in that 19 lawsuit? 20 A. No. 21 Q. Did you represent Kevin Sullivan in that 22 lawsuit? 23 A. No. 24 Q. Did you offer advice to the city concerning</p>

<p style="text-align: right;">198</p> <p>1 how to defend that lawsuit?</p> <p>2 A. Did I offer advice? I was aware of the</p> <p>3 lawsuit. I was not directly involved in it. My</p> <p>4 understanding of the privilege is such that even if</p> <p>5 you have not been formally retained as a lawyer, if</p> <p>6 somebody comes up and asks questions that may have a</p> <p>7 legal bearing, that is sufficient to trigger at</p> <p>8 least a possible privilege. So I am unwilling</p> <p>9 without clearance to discuss it further without</p> <p>10 clarification as to whether or not somebody else</p> <p>11 claims that privilege.</p> <p>12 Q. When you spoke to Kevin Sullivan about the</p> <p>13 Traficanti comp case, was that before or after</p> <p>14 McCann's case was filed?</p> <p>15 A. I believe it was before McCann's case was</p> <p>16 filed. I don't think it was filed until later. I</p> <p>17 believe that Frank McCann was suspended. I think he</p> <p>18 was suspended in about March of 2007.</p> <p>19 Q. Do you recall roughly when that</p> <p>20 conversation with Kevin Sullivan was?</p> <p>21 A. I believe that conversation would have</p> <p>22 taken place in the end of March, April, beginning of</p> <p>23 May time frame.</p> <p>24 Q. Was that conversation part of a factual</p>	<p style="text-align: right;">200</p> <p>1 be far more efficient to have me prepare a log of</p> <p>2 these conversations. I spoke to Michael Sullivan on</p> <p>3 such and such a date. And then we can really narrow</p> <p>4 it and hand it to the judge in an efficient and</p> <p>5 meaningful way, rather than handing him two volumes</p> <p>6 of deposition transcript and telling him -- even if</p> <p>7 we boil down, it will be difficult to figure out.</p> <p>8 That is my recommendation. That's for discussion.</p> <p>9 Q. In an attempt to not belabor questions you</p> <p>10 are not going to answer, let's go through the rest</p> <p>11 of the list of names that you gave and what their</p> <p>12 jobs were.</p> <p>13 Thomas Schiavone, what was his job at</p> <p>14 the time?</p> <p>15 A. He was economic development director.</p> <p>16 Q. Nora Carroll?</p> <p>17 A. At one point, and I don't know the date it</p> <p>18 changed, she was sort of head administrative</p> <p>19 assistant. I'm doing her a disservice. She was</p> <p>20 more than a secretary. She may have been</p> <p>21 confidential secretary or executive secretary to</p> <p>22 Michael Sullivan. At some point she became Michael</p> <p>23 Sullivan's chief of staff. I don't remember when</p> <p>24 that happened. It may have been during this period.</p>
<p style="text-align: right;">199</p> <p>1 investigation by you?</p> <p>2 A. Among other things, yes.</p> <p>3 Q. What types of other things?</p> <p>4 A. I'm going to defer.</p> <p>5 Q. Was it strategy?</p> <p>6 A. Those sorts of things, I understand you're</p> <p>7 trying to not get to the words that were exchanged</p> <p>8 as opposed to the concept of what was discussed, but</p> <p>9 I think you're getting into an area of distinction</p> <p>10 without a difference. What I think makes more sense</p> <p>11 is that this will be on the long list of things that</p> <p>12 we get clarified and articulated before a judge for</p> <p>13 a decision.</p> <p>14 Q. One of the things that we had discussed</p> <p>15 prior to today that we would put on the record is</p> <p>16 creating a list of the conversations that you had</p> <p>17 regarding this matter, and maybe other matters but</p> <p>18 maybe just this matter, and who you had them with</p> <p>19 and roughly when you had them, a privilege log of</p> <p>20 conversation.</p> <p>21 A. I might suggest, the way we are proceeding</p> <p>22 here, there are documents, as we know. There is</p> <p>23 also a long list of these conversations that you're</p> <p>24 starting to ask about now. In my opinion it would</p>	<p style="text-align: right;">201</p> <p>1 I think it was after, but I don't remember exactly</p> <p>2 when.</p> <p>3 Q. Michael Sweeney?</p> <p>4 A. He was planning director.</p> <p>5 Q. Charlie Boddy?</p> <p>6 A. City attorney.</p> <p>7 Q. Frank McCann we spoke about.</p> <p>8 A. One more, Nora Carroll I mentioned. I</p> <p>9 think at that time Myles Burke was the chief of</p> <p>10 staff. Assuming Myles was chief of staff at that</p> <p>11 time, then there would have been a conversation with</p> <p>12 him. I can't specifically recall.</p> <p>13 Q. Okay.</p> <p>14 A. The best way of answering is that it was</p> <p>15 generally discussed with a wide variety of people in</p> <p>16 lots of different forms and formats. We didn't sit</p> <p>17 down at a table and say here is the agenda.</p> <p>18 Q. Who directed your strategy in defending the</p> <p>19 claim?</p> <p>20 A. I think the only way I can answer that is</p> <p>21 that the mayor is the chief executive of the city.</p> <p>22 Who he spoke to or took advice from, I can't</p> <p>23 necessarily say. At the end of the day he was</p> <p>24 responsible for decisions.</p>

<p style="text-align: right;">202</p> <p>1 Q. Who was responsible for communicating his 2 decisions to you? 3 A. There were several people who would do 4 that. 5 Q. Who? 6 A. Over a period of time? 7 Q. The Traficanti matter. 8 A. There's another name I should mention in 9 there. People came and went. I don't remember 10 during this period. For example, just to clarify, 11 Frank Bonet was there during this entire time. 12 People would change, department heads would change 13 during this period. There were a couple of 14 different comptrollers. Marc Andrews was the budget 15 and finance director. He would have been another 16 person who I had communication with. I received 17 lots of different input from lots of different 18 people over a period of time. 19 Q. Who was responsible for communicating, not 20 so much giving you input, but communicating the 21 mayor's decisions to you? 22 A. I know who communicated things to me but 23 that's different than saying who was responsible for 24 doing it. I don't know always who was directing</p>	<p style="text-align: right;">204</p> <p>1 discussions about things that needed to be done to 2 get prepared. Some of that would have gone through 3 normal channels and some of it would be to talk to 4 people. I wouldn't necessarily go to Judy Perkins 5 and say I would now like to speak to Frank Bonet. 6 This is just as a general of what I did. I would go 7 to talk to the people I needed talking to. 8 Generally speaking, I knew them well enough. I 9 wouldn't say I needed permission to talk to various 10 people. 11 Q. Who would have the authority to authorize 12 settlement to you? 13 A. At the end of the day I believe only 14 Michael Sullivan was the one who had final 15 authority. He would in some cases provide that 16 authority to other people. 17 Q. In this case did he provide that authority 18 to anybody else? 19 A. I'm going to refuse to answer that, 20 privilege. 21 Q. Did you ever get authority to settle this 22 case? 23 A. I'm going to refuse to answer that, 24 privilege.</p>
<p style="text-align: right;">203</p> <p>1 whom. 2 Q. Who communicated the mayor's decisions in 3 terms of the strategy of this matter to you? 4 A. At what time? 5 Q. Let's start with March of 2007 and move 6 forward. 7 A. Again, it evolved as time went on. 8 Initially my conversations were primarily with Judy 9 Perkins. Later I had conversations with all of 10 those different individuals, including directly with 11 Mike Sullivan. So I got different input from 12 different people at different times. Then obviously 13 I would advise, as the lawyer I would make 14 recommendations or suggestions at various times. 15 Q. Who did you report updates to on this 16 matter? 17 A. Again, various things, various times, 18 various people. I'm not trying to be coy. For 19 example, I'm sure at some point I received a notice 20 of conciliation. That's one of the basic things 21 that happens in comp, a notice of conciliation. 22 Normally I would send that to Judy Perkins. I 23 wouldn't run that through the chain of command and 24 cc 35 people on it. There would have been</p>	<p style="text-align: right;">205</p> <p>1 Q. Did you ever make an offer of settlement to 2 the other side? 3 A. There were settlement discussions with the 4 other side, yes. 5 Q. Including an offer made by the city? 6 A. Was there ever a formal, written offer 7 made? I don't believe -- I'm not trying to parse 8 things too directly here. I don't think there was 9 ever a documented proposal that was made. 10 Q. Either orally or in writing? 11 A. There were conversations. That I can say. 12 Q. Did you have authority to settle the case? 13 A. I've got to refuse to answer that. 14 Q. What procedural events occurred in your 15 representation of the city in this matter? 16 A. The formal ones are pretty easy. There was 17 a conciliation. I don't remember the exact date. I 18 believe it was in April. 19 Q. Of 2007? 20 A. Of 2007. It may have been the end of 21 March. I don't remember exactly. There was a 22 conference at the end of May of 2007. There was, as 23 is traditionally the case, matters scheduled for an 24 impartial examination. Are you familiar with what</p>

<p style="text-align: right;">206</p> <p>1 an impartial is?</p> <p>2 Q. I am, but for the record.</p> <p>3 A. What happens in a workers' compensation</p> <p>4 world, after a conference, assuming one or both</p> <p>5 sides appeal the conference order, the case is</p> <p>6 submitted to an impartial physician who is</p> <p>7 identified and essentially retained by the</p> <p>8 Commonwealth. That person makes an examination and</p> <p>9 provides a report to the judge which then becomes</p> <p>10 evidence in the subsequent proceeding.</p> <p>11 Q. Do you recall roughly when the impartial</p> <p>12 exam was?</p> <p>13 A. It would have been in the fall of 2007.</p> <p>14 When, I can't say with specificity. I'm guessing</p> <p>15 later that year.</p> <p>16 Q. Any other procedural steps?</p> <p>17 A. Yes. I believe there was a hearing</p> <p>18 scheduled for March 3rd of 2008.</p> <p>19 Q. What was that hearing on?</p> <p>20 A. That hearing would have been the trial,</p> <p>21 when things started, testimony would have started.</p> <p>22 Q. At what point did you stop representing the</p> <p>23 city in the Traficanti matter?</p> <p>24 A. June 2008.</p>	<p style="text-align: right;">208</p> <p>1 conciliation?</p> <p>2 A. Yes. Conciliations are usually over</p> <p>3 somebody wants physical therapy for their back. Can</p> <p>4 you pay for it? You talk about it and work</p> <p>5 something out. Conciliations can be very helpful in</p> <p>6 more defined, smaller problems. They do not</p> <p>7 generally have any great effect in a complex case.</p> <p>8 Q. Is the city self-insured for workers' comp?</p> <p>9 A. It is.</p> <p>10 Q. What occurred in the conference of May of</p> <p>11 '07?</p> <p>12 A. As normally happens, the attorneys come in</p> <p>13 and make presentations in front of the judge, submit</p> <p>14 evidence or documentation, I should say. That's the</p> <p>15 broad overview.</p> <p>16 Q. What did the judge do at the conference or</p> <p>17 shortly after the conference?</p> <p>18 A. I believe the judge took it under</p> <p>19 advisement after the conference, which is standard</p> <p>20 procedure, and shortly thereafter he issued a</p> <p>21 conference order.</p> <p>22 Q. What was the conference order?</p> <p>23 A. The conference order was to place Andrea</p> <p>24 Traficanti on benefits.</p>
<p style="text-align: right;">207</p> <p>1 Q. Were there any other events after the</p> <p>2 hearing while you were still representing the city?</p> <p>3 A. Formal events?</p> <p>4 Q. Yes.</p> <p>5 A. No. We appeared on, I believe it was March</p> <p>6 3rd, that neighborhood. We appeared at that time.</p> <p>7 We had a conversation with the judge that we were</p> <p>8 trying to work something out. As judges will</p> <p>9 frequently do, he said okay, go see what you can do</p> <p>10 and get back to me.</p> <p>11 Q. To work something out, do you mean to</p> <p>12 settle the case?</p> <p>13 A. Yes.</p> <p>14 Q. I have you saying there were four official</p> <p>15 events, the conciliation, the conference, the</p> <p>16 impartial and the hearing.</p> <p>17 A. The impartial is not something that the</p> <p>18 lawyers attend.</p> <p>19 Q. Of course.</p> <p>20 A. That's just one of the big four things that</p> <p>21 happen that normally get an official date from the</p> <p>22 board.</p> <p>23 Q. At the conciliation, I assume based on the</p> <p>24 succeeding events there was no successful</p>	<p style="text-align: right;">209</p> <p>1 Q. The city appealed that decision after</p> <p>2 getting the impartial?</p> <p>3 A. It did.</p> <p>4 Q. What did the impartial find?</p> <p>5 A. I am reluctant to talk about that because</p> <p>6 it is a medical record. I don't know whether it is</p> <p>7 public knowledge or something that can be discussed.</p> <p>8 Q. Was the impartial's findings in line with</p> <p>9 the judge's findings at the conference?</p> <p>10 A. I can't say. Sorry. I will be honest. I</p> <p>11 don't know if that is a -- I don't know if that is a</p> <p>12 public record. It is part of the comp board file.</p> <p>13 But it is not something that -- I mean, it is a</p> <p>14 medical record. It either has -- I don't think it</p> <p>15 has an attorney-client privilege issue. I think</p> <p>16 there may be HIPAA and/or privacy concerns there. I</p> <p>17 would not voluntarily share that with anyone in any</p> <p>18 case.</p> <p>19 Q. What steps did you take in your</p> <p>20 investigation of this claim?</p> <p>21 A. Normal steps in terms of gathering</p> <p>22 documents and talking to a number of individuals.</p> <p>23 Q. What documents did you gather?</p> <p>24 A. I gathered together -- I'm trying to think</p>

<p style="text-align: right;">210</p> <p>1 of how best to answer the question. I gathered 2 together a number of documents, both city -- I 3 reviewed, anyway, city personnel documents, I 4 reviewed medical records. Those would have been the 5 big categories of documents that I would have 6 reviewed. 7 Q. You said you spoke to a number of 8 individuals in terms of a fact investigation? 9 A. Yes. 10 Q. Who were those people? 11 A. All of those people I listed earlier. And 12 then there would have been some others too. There 13 may have been some anecdotal evidence from some of 14 the people. I'm trying to think of who else. The 15 ones I mentioned earlier would have been the ones I 16 primarily spoke to. 17 Q. Those were all factual witnesses, for lack 18 of a better description? 19 A. They were not necessarily fact witnesses in 20 the sense of somebody you would call. But when 21 doing a general investigation, you call people to 22 find out who had information that I need. I would 23 have talked to lots and lots of people because I was 24 tracing down lots and lots of stories or theories or</p>	<p style="text-align: right;">212</p> <p>1 Q. How about not in terms of gathering 2 information, have you discussed the case with 3 anybody you've not told us about that was not a city 4 employee? 5 A. There were a number of city employees who 6 expressed some knowledge as to what was going on. 7 There were any number of people that I could 8 probably name, I don't know how many people, that 9 would know what was going on and would have 10 expressed some dismay or concern about what was 11 going on. 12 Let me put it in context for you. 13 That's something that's been mentioned in this case 14 too. I think everybody in this room is familiar 15 with the Jennifer Pedallaro case. There were a 16 number of people who know about the Jennifer 17 Pedallaro case. It was relatively well-known at 18 that time that something had happened there. When 19 this case came up, a lot of people were curious 20 about this case. People would come up and ask me 21 questions. And to be polite and because I liked 22 most of these people and wanted to get along, I 23 would say hi, how are you, yeah, what have you, and 24 pass the whole thing off. There were lots of people</p>
<p style="text-align: right;">211</p> <p>1 concerns or allegations or whatever. I spoke to a 2 wide number of people. 3 Q. But you saw factual information from all 4 those people in one form or another? As opposed to 5 strategic conversations. 6 A. Again, I'm going to defer on the privilege 7 issue. That gets into what substantive 8 conversations I would have had. I think I'm 9 entitled to say that I discussed the Traficanti 10 matter with all of them. But we are starting to get 11 a little bit of a fine point on it. 12 Q. Did you discuss the Traficanti matter with 13 anybody, anybody who was not an employee of the city 14 aside from Kevin Sullivan who you've already 15 mentioned? I'll include in that also staff members 16 of your office and your father, who I think you were 17 still practicing with. 18 A. Okay. I would have spoken to Andrea 19 Traficanti's attorney. I would have spoken to the 20 conciliator. In terms of gathering information at 21 that time, that's all I can think of. I think 22 everybody that I spoke to would have been 23 city-related. I can't think of any reason for me to 24 go outside of the city.</p>	<p style="text-align: right;">213</p> <p>1 interested as in a prurient, gossipy interest and I 2 found no value or appropriateness in discussing 3 something specific. 4 (A recess was taken.) 5 Q. What was your assessment of the Traficanti 6 case against the city? 7 A. My assessment was that for a variety of 8 reasons it was far more complex and cumbersome than 9 most workers' compensation cases, which are 10 straightforward. 11 Q. Why? 12 A. Because most workers' compensation cases 13 involve, as I said before, somebody hurts their back 14 jackhammering. And this one was a stress case, 15 which is by definition a lot more subjective. 16 There's not a lot of objective what's hurt or what's 17 broken or whatever else. And there were a lot of 18 people who -- it seemed to be a politically charged 19 matter. 20 Q. What about it was politically charged? 21 A. That there were at that time sort of vague 22 allegations that there were political considerations 23 about why whatever was happening was happening. 24 While some of it was factual and verifiable, there</p>

<p style="text-align: right;">214</p> <p>1 was a lot of rumor and innuendo swirling around at 2 this point in particular. So it was very difficult 3 to clearly ascertain what was going on; again, 4 meaning that there was no defining event or moment 5 or even injury. There was a lot of speculation why 6 she was on comp and why other things were going on 7 in the city. It was unusual.</p> <p>8 Q. What types of other things are you 9 referencing? What other things going on in the city 10 were you referencing?</p> <p>11 A. The difficulty I'm having in answering your 12 question was almost everything I know was the result 13 of conversations that I had with other people that 14 are the subject of the problems we were having. I 15 didn't know, I didn't see anything that may or may 16 not have happened with Ms. Traficanti. So I have no 17 personal knowledge. Everything I know came from 18 somewhere else. Most of those conversations if not 19 potentially privileged, they get into the area we 20 discussed before, which is that anything I say may 21 affect the Traficanti matter. Anything that I say 22 that has to do with any defenses that I was going to 23 raise, any particular points that I was going to 24 address, any specifics about what it is that I knew</p>	<p style="text-align: right;">216</p> <p>1 an undue bearing on the case that shouldn't. If I 2 discuss, for example, even tangentially what's going 3 on, I am afraid that stuff ends up in the newspaper 4 and it interferes with what I think is an important 5 process for the adjudication of justice.</p> <p>6 Q. While you were still defending the city in 7 the Traficanti matter, you said there was a lot of 8 interest in it. Is that a fair characterization of 9 your testimony?</p> <p>10 A. Yes, I think that's probably fair.</p> <p>11 Q. That interest came from beyond just City 12 Hall, right?</p> <p>13 A. I imagine there was a lot of interest 14 outside of City Hall. To my knowledge, I believe 15 Ms. Traficanti was pretty well known in the 16 community. She was a neighborhood -- I did know 17 anecdotally from other sources that she had been 18 involved in campaigns and was all over the place. A 19 lot of people knew about it. Prurient interest was 20 part of it. People wanted to know what was going 21 on.</p> <p>22 Q. You said people would come up to you to 23 discuss the case and you would say yeah, it is going 24 on, something along those lines?</p>
<p style="text-align: right;">215</p> <p>1 that I would have, for example, used at a hearing, 2 should it have gone that far, that still hasn't 3 taken place. Those things may still be at play at 4 some point in the future. Again, for the reasons 5 I've stated over and over again, I am reluctant to 6 discuss things, not only privileged materials but 7 work-product type of materials that are going to 8 interfere.</p> <p>9 I would like to be clear on the record 10 that I would like to discuss all of this stuff, but 11 it seems to me that the issue comes down to that -- 12 let me be blunt about it. What should happen in 13 this case is that if people want to let the 14 Traficanti case happen and take its natural course, 15 then we should all be able to agree on a protective 16 order so that we don't interfere with that process. 17 I believe that some, if not most of the people in 18 this room are willing to do so. The only reason 19 that people aren't willing to do so has nothing to 20 do with the fairness or justness of doing this the 21 right way. I think it has to do with inappropriate 22 considerations.</p> <p>23 I'm just put in a difficult position of 24 answering questions that are going to have perhaps</p>	<p style="text-align: right;">217</p> <p>1 A. Not discuss the case in a meaningful 2 exchange of facts. But a gossipy, what's going on. 3 I was never going to talk about that stuff.</p> <p>4 Q. Did those gossipy requests come from 5 members of the bar?</p> <p>6 A. Some of the people knew about it. I 7 honestly can't remember who. It was discussed a 8 little bit by the DIA. Some people knew about it. 9 That's not uncommon. Stress cases and things like 10 that are less usual. So I think people are 11 generally aware of its existence. I don't think 12 anybody knew much about the specifics of what 13 actually happened or what was going on.</p> <p>14 Q. I don't want to go down the entire list to 15 belabor this too much, but you said you discussed 16 this matter with Frank McCann; is that right?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. Do you recall when that was?</p> <p>19 A. It would have been sometime after I learned 20 about it.</p> <p>21 Q. Was it while he was suspended in March of 22 2007?</p> <p>23 A. I doubt it. I don't think I saw -- there's 24 no reason I would have seen him during that time</p>

<p style="text-align: right;">218</p> <p>1 period.</p> <p>2 Q. Was it as part of your fact-gathering that</p> <p>3 you spoke to him?</p> <p>4 A. Again, that would get into conversations</p> <p>5 that I had with him. I'm going to decline to answer</p> <p>6 at this point. Yes, I had a conversation with him.</p> <p>7 I think the appropriate thing to say -- unless you</p> <p>8 think I'm missing something -- yes, I had a</p> <p>9 conversation with Frank McCann. Yes, the subject of</p> <p>10 the conversation had something to do with the</p> <p>11 Traficanti case. That's all I can say.</p> <p>12 Q. Do you recall only one conversation or was</p> <p>13 there more than one?</p> <p>14 A. Over the life of the lawsuit, I for the</p> <p>15 most part assiduously stayed away from discussing</p> <p>16 it. I'm sure that there was more than one</p> <p>17 conversation.</p> <p>18 Q. I'm not sure I understand your answer.</p> <p>19 Over the life of the lawsuit while you were</p> <p>20 representing the city or over the life of the</p> <p>21 lawsuit since you were representing the city?</p> <p>22 A. Initially when I was defending the case I</p> <p>23 was not aware -- let me put it this way. It was</p> <p>24 only later that I became aware that there was a</p>	<p style="text-align: right;">220</p> <p>1 All I knew was that at that point it was -- it would</p> <p>2 have been earlier in '07. I don't know exactly</p> <p>3 when. I can say that -- I can say this. I was</p> <p>4 very, very careful about who I talked to and what I</p> <p>5 talked about with every individual person I spoke</p> <p>6 to, because I did not know -- I knew that I didn't</p> <p>7 know what all the relationships were, not just Frank</p> <p>8 and Andrea but with all of these individuals. So I</p> <p>9 was very careful. I was very attentive to listening</p> <p>10 to what people had to say. I was very, very</p> <p>11 cautious about anything that I would say. It was</p> <p>12 not often a lot of need for me to say things as much</p> <p>13 as there was for me to listen to things.</p> <p>14 Q. Did you have conversations with Mr. McCann</p> <p>15 about this matter after you learned of his</p> <p>16 relationship with Ms. Traficanti? By this matter, I</p> <p>17 mean the workers' compensation case.</p> <p>18 A. Any conversations at all?</p> <p>19 Q. About the case.</p> <p>20 A. About the substance of the case?</p> <p>21 Q. You're not going to tell me what you spoke</p> <p>22 to him about. I can only ask whether you had</p> <p>23 conversations about the case. If you can tell me</p> <p>24 whether it was about the substance of the case</p>
<p style="text-align: right;">219</p> <p>1 relationship between Frank McCann and Andrea</p> <p>2 Traficanti.</p> <p>3 Q. When you say later, later than what?</p> <p>4 A. Later than March of 2007.</p> <p>5 Q. While you were still representing the city?</p> <p>6 A. While I was still representing the city. I</p> <p>7 still remember because I learned, I think -- I can't</p> <p>8 be specific on the date. If I'm not mistaken, I</p> <p>9 believe they got married in April of 2008. And I</p> <p>10 learned about that wedding very shortly before it</p> <p>11 happened. It was one of those odd things that</p> <p>12 everybody else seemed to know except me at that</p> <p>13 point, or at least lots of other people knew, but I</p> <p>14 found out about it much, much later in the game.</p> <p>15 Q. You learned about the wedding, you said,</p> <p>16 shortly before. Is that when you also learned about</p> <p>17 their relationship?</p> <p>18 A. No, I had heard about their relationship</p> <p>19 prior to that. When exactly I learned, I don't</p> <p>20 know.</p> <p>21 Q. Sometime late '07, roughly?</p> <p>22 A. I honestly wish I could remember.</p> <p>23 Q. So do I.</p> <p>24 A. It is not the sort of thing I wrote down.</p>	<p style="text-align: right;">221</p> <p>1 versus something else, I would love to hear it.</p> <p>2 A. I recall a conversation I had with Frank</p> <p>3 McCann about the Andrea Traficanti case in 2008,</p> <p>4 yes.</p> <p>5 Q. Where was this conversation?</p> <p>6 A. I believe it was in that courtyard outside</p> <p>7 my office.</p> <p>8 Q. Who else was present?</p> <p>9 A. At that time, nobody.</p> <p>10 Q. Can you tell me the general topic of what</p> <p>11 was discussed?</p> <p>12 A. The only thing I'm comfortable discussing</p> <p>13 is that there was a very brief discussion regarding</p> <p>14 the existence -- regarding the Traficanti case.</p> <p>15 That's all I can say.</p> <p>16 Let me pause here for a moment. Strike</p> <p>17 that. It is not time for me to make a speech. Ask</p> <p>18 your questions.</p> <p>19 Q. Okay. Did you ever witness your father</p> <p>20 having a conversation with Mr. McCann about the</p> <p>21 Traficanti case?</p> <p>22 A. No.</p> <p>23 Q. Do you have knowledge of your father having</p> <p>24 a conversation with Mr. McCann about the Traficanti</p>

<p style="text-align: right;">222</p> <p>1 case?</p> <p>2 A. Can you ask that again?</p> <p>3 Q. Do you have any knowledge about your father</p> <p>4 having a conversation with Mr. McCann about the</p> <p>5 Traficanti case?</p> <p>6 A. No.</p> <p>7 Q. Have you ever seen Mr. McCann inside your</p> <p>8 office?</p> <p>9 A. Outside my office?</p> <p>10 Q. Inside your office.</p> <p>11 A. Oh, sure, he was in my office before.</p> <p>12 Q. Was he in your office between March of '07</p> <p>13 and June of 2008?</p> <p>14 A. I'm sure he was. I couldn't tell you</p> <p>15 specifically. For clarification, the reason was</p> <p>16 Frank was the head of DPW. Most injured workers by</p> <p>17 definition are DPW people. In that flow of</p> <p>18 communication of is this guy coming back to work, or</p> <p>19 what jobs do we have available, stuff like that,</p> <p>20 most of the time that would take place outside.</p> <p>21 Frank liked to smoke, and I preferred he didn't</p> <p>22 smoke in my office. Most of those conversations</p> <p>23 would take place outside. If it was raining or</p> <p>24 something, he would come inside the office. It was</p>	<p style="text-align: right;">224</p> <p>1 there was some discussion all over the place. But</p> <p>2 he had no -- it wasn't like we sat down and</p> <p>3 strategized.</p> <p>4 He might have been aware. For</p> <p>5 example -- this is a made-up example. If I were</p> <p>6 going to the conference that day, there may have</p> <p>7 been a conversation between him and I about I was</p> <p>8 going to a conference at 1:00 o'clock in the</p> <p>9 Traficanti case. It was general. There was nothing</p> <p>10 substantive. He wasn't involved. He was around.</p> <p>11 Q. Did you have a conversation in 2008 with</p> <p>12 Michael Sweeney and Thomas Schiavone concerning this</p> <p>13 case?</p> <p>14 A. Yes.</p> <p>15 Q. Are you aware of affidavits signed in this</p> <p>16 litigation by Mr. Schiavone and Mr. Sweeney</p> <p>17 concerning this conversation?</p> <p>18 A. Yes.</p> <p>19 Q. When was that conversation?</p> <p>20 A. In May of 2008.</p> <p>21 Q. May of 2008?</p> <p>22 A. I believe so.</p> <p>23 Q. Was there a procedural event coming soon</p> <p>24 thereafter?</p>
<p style="text-align: right;">223</p> <p>1 not a frequent occurrence to have him inside my</p> <p>2 office.</p> <p>3 Q. Did you ever discuss the Traficanti matter</p> <p>4 inside your office?</p> <p>5 A. I can't be a hundred percent sure, but I</p> <p>6 don't believe so.</p> <p>7 Q. Was your father present for any</p> <p>8 conversation that you had with Mr. McCann about the</p> <p>9 Traficanti case?</p> <p>10 A. Not that I can recall, no.</p> <p>11 Q. Was your father involved at all in the</p> <p>12 defense of the Traficanti case?</p> <p>13 A. No.</p> <p>14 Q. Did he offer advice to you in how you</p> <p>15 should handle your defending the Traficanti case?</p> <p>16 A. I don't think so, no.</p> <p>17 Q. Do you recall ever discussing it with him</p> <p>18 before your termination with the city?</p> <p>19 A. My father substantially retired sometime in</p> <p>20 this time frame. I can't remember the exact date</p> <p>21 that he was officially semi done. He would come to</p> <p>22 the office, and there would still be conversations</p> <p>23 that took place between us about various things.</p> <p>24 I'm sure he was generally aware of it. As I said,</p>	<p style="text-align: right;">225</p> <p>1 A. It was before the conference.</p> <p>2 Q. The conference was on March 3rd, 2008? The</p> <p>3 hearing was on March 3rd, 2008?</p> <p>4 A. I'm sorry. I got my dates confused. I had</p> <p>5 a conversation with them in 2008?</p> <p>6 Q. Yes.</p> <p>7 A. The affidavits that you were asking about,</p> <p>8 those conversations took place in 2007 before the</p> <p>9 conference.</p> <p>10 Q. It was right before the conference in May</p> <p>11 of 2007.</p> <p>12 A. Yes. I got my '07 and '08 confused. The</p> <p>13 conversation referenced in those affidavits took</p> <p>14 place before the conference in May 2007.</p> <p>15 Q. Where was this meeting?</p> <p>16 A. I believe it took place in what would have</p> <p>17 been the mayor's office area.</p> <p>18 Q. Who was present for it?</p> <p>19 A. There may have been one or two other people</p> <p>20 in or out briefly. Generally speaking, the</p> <p>21 conversation took place between me, Mr. Sweeney and</p> <p>22 Mr. Schiavone.</p> <p>23 (Marked, Exhibit 6, Affidavit of Thomas</p> <p>24 Schiavone.)</p>

<p style="text-align: right;">226</p> <p>1 Q. Exhibit 6, I'll represent to you, is a copy 2 of the affidavit of Thomas Schiavone. Do you have 3 that in front of you right now? 4 A. I do. 5 Q. Could you take a look at it, please. 6 A. (Witness complies.) 7 Q. Have you seen a chance to review this? 8 A. I have. 9 Q. Have you seen this document before? 10 A. I have. 11 Q. Are you familiar with it? 12 A. Yes. 13 Q. What I'd like to do is go paragraph by 14 paragraph and find out whether you dispute the facts 15 or allegations given by Mr. Schiavone. I imagine 16 you will tell me you can't answer a lot of that. 17 A. That's the fundamental conundrum in this 18 case. 19 MR. DUGGAN: (Inaudible). 20 MR. DIADAMO: I'm going to ask politely 21 that if Mr. Duggan insists on interjecting, he be 22 asked to leave. 23 (Discussion off the record.) 24 A. I don't remember if I was finished with my</p>	<p style="text-align: right;">228</p> <p>1 former or present. 2 A. I'll say one more thing, not to derail this 3 at all. In my opinion, all of this can be obviated 4 by the parties agreeing to a protective order and 5 then to Mr. Duggan's point I can answer questions. 6 I'll leave that where it is. 7 Q. Paragraph 1, can you review that and 8 confirm whether or not you disagree with that? 9 A. Paragraph 1 is correct. That's generally 10 known. I would add that he was not, to my 11 knowledge, the economic development director. He 12 was the acting economic development director. He 13 was never confirmed by the city council. 14 Q. Did you come into the mayor's office 15 unannounced on or before the date of the hearing or 16 conference in May 2007? 17 A. I was there on a number of occasions. I 18 believe I was there on the day before the workers' 19 compensation conference, not hearing. Those are 20 very different things. He apparently does not 21 understand. I'm not sure what he means by 22 unannounced. 23 Q. Did you have a scheduled appointment to 24 have that conversation?</p>
<p style="text-align: right;">227</p> <p>1 discussion. But let me try again. To me it is a 2 fundamental conundrum in the case. I'm not even 3 sure how it applies to Mr. Schiavone. But despite 4 the fact that there have been at least a couple of 5 affidavits produced about conversations that took 6 place, there's also a suggestion that the 7 communications are privileged, which is in my 8 opinion a completely untenable position. It is a 9 ridiculous position. 10 However, I am on notice that there's a 11 claim that there's a privilege associated with this 12 conversation even though there's an affidavit about 13 it. Unfortunately, Jim Bowers, Mr. Schiavone's 14 attorney, isn't here or I would put it on him to say 15 you need to object. My understanding of the 16 privilege is that the person asserting the privilege 17 needs to object when the privilege is about to be 18 discussed. So I don't know what to do about this. 19 Q. I clearly cannot advise you on what you 20 should do. 21 A. Absolutely. 22 Q. I will ask my questions and you can answer 23 them or not as you deem appropriate based on your 24 understanding of your obligation to your clients</p>	<p style="text-align: right;">229</p> <p>1 A. With those two gentlemen, no. 2 Q. Did you tell him that the conference was 3 imminent? 4 A. At that time? 5 Q. At that meeting. 6 A. I'm delaying because I don't want to do 7 something that interferes with or in some way 8 theoretically waives or violates the privilege. I 9 can tell you that to the best of my recollection the 10 day before the conference I did have a conversation 11 in which Mr. Schiavone was involved. 12 Q. Was Mr. Sweeney also involved in that 13 conversation? 14 A. He was. 15 Q. Turning to Paragraph 4, did you ask them 16 what direction the office wanted to go regarding the 17 Andrea Traficanti matter? 18 A. I don't want to answer based on the 19 privilege. Sorry. 20 Q. That's fine. 21 A. I know you have to ask the questions. 22 Q. Was the administration's position at this 23 time that Ms. Traficanti's injury claim was 24 contrived?</p>

<p style="text-align: right;">230</p> <p>1 A. I'm going to decline to answer.</p> <p>2 Q. Did Mr. Schiavone, turning to Paragraph 5,</p> <p>3 tell you that if you needed a witness to defend</p> <p>4 against the case, he would testify?</p> <p>5 A. I would again decline to testify.</p> <p>6 Q. Did Mr. Sweeney make that representation to</p> <p>7 you?</p> <p>8 A. Mr. Brooks is here. If he wants to waive</p> <p>9 the privilege, then I can discuss it.</p> <p>10 MR. BROOKS: I can't at this point,</p> <p>11 because you are going to use it -- you've already</p> <p>12 argued that the privilege is waived with respect to</p> <p>13 everything related to the case. I would have to</p> <p>14 object with respect to this.</p> <p>15 Q. Did Mr. Sweeney provide you with the names</p> <p>16 of other people, both current and former City Hall</p> <p>17 employees, who could help with the case to refute</p> <p>18 Ms. Traficanti's claims?</p> <p>19 MR. BROOKS: Same objection.</p> <p>20 Q. Did you ask for any other informational</p> <p>21 materials from them?</p> <p>22 MR. BROOKS: I'm sorry?</p> <p>23 Q. Did you ask for any other information or</p> <p>24 materials from either Mr. Sweeney or Mr. Schiavone</p>	<p style="text-align: right;">232</p> <p>1 Sweeney, unsigned.)</p> <p>2 Q. Putting before you Exhibit 7, which is the</p> <p>3 copy of the affidavit of Michael Sweeney. Have you</p> <p>4 seen this document before?</p> <p>5 A. I have.</p> <p>6 Q. The copy I've given you is unsigned, which</p> <p>7 I'm just discovering myself. Have you seen a signed</p> <p>8 copy of this document before, a signed copy of an</p> <p>9 affidavit from Mr. Sweeney before?</p> <p>10 A. I've seen a signed copy of an affidavit</p> <p>11 from Mr. Sweeney. I don't have the other one in</p> <p>12 front of me to compare. I don't know if this is the</p> <p>13 same.</p> <p>14 Q. I'll delay questions on that until after</p> <p>15 lunch. I'll see if I can find a signed copy.</p> <p>16 I would like to turn now to discussing</p> <p>17 your termination by the city. Given the time,</p> <p>18 perhaps it would make sense to take a break for</p> <p>19 lunch and come back after lunch. Off the record.</p> <p>20 (A luncheon recess was taken.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">231</p> <p>1 during that meeting?</p> <p>2 MR. BROOKS: The same objection.</p> <p>3 MR. SEGAL: I can keep going through</p> <p>4 this. I imagine as to all statements as to</p> <p>5 conversations there will be objections by both</p> <p>6 parties. Is that correct?</p> <p>7 MR. BROOKS: At least with respect to</p> <p>8 Mr. Sweeney, sure.</p> <p>9 MR. DiADAMO: I'm not objecting. I'm</p> <p>10 merely stating that there was a privilege, for</p> <p>11 clarity of the record, that I have been told --</p> <p>12 which has been waived, but it has been waived with</p> <p>13 the request that it be done under the auspices of a</p> <p>14 protective order so that it doesn't interfere with</p> <p>15 the ongoing case.</p> <p>16 Q. Is this the city's privilege or is it</p> <p>17 Mr. Sweeney's and Mr. Schiavone's privilege?</p> <p>18 A. My position is that they have no privilege.</p> <p>19 They were not my client. The City of Lawrence was</p> <p>20 my client. Individuals do not have privileges in</p> <p>21 this situation.</p> <p>22 MR. SEGAL: Please mark this as the next</p> <p>23 exhibit.</p> <p>24 (Marked, Exhibit 7, Affidavit of Michael</p>	<p style="text-align: right;">233</p> <p>1 AFTERNOON SESSION</p> <p>2 (Mr. Duggan and Mr. Knowles are not</p> <p>3 present.)</p> <p>4 (Marked, Exhibit 8, Affidavit of Michael</p> <p>5 Sweeney, signed.)</p> <p>6 MR. SEGAL: Back on the record.</p> <p>7 Q. Handing you what is marked as Exhibit 8.</p> <p>8 It is a signed copy of Exhibit 7. Based on my quick</p> <p>9 review, it is the same in text. There's one spacing</p> <p>10 difference, which is that Paragraph 11, the final</p> <p>11 paragraph, was moved totally to Page 3 before it was</p> <p>12 signed. Let's discard 7, not throw it away, just</p> <p>13 ignore it and move on to Exhibit 8.</p> <p>14 Will you, Mr. DiAdamo, answer questions</p> <p>15 about whether or not the statements attributed to</p> <p>16 you here or the statements attributed to Mr. Sweeney</p> <p>17 here are accurate?</p> <p>18 MR. BROOKS: Objection.</p> <p>19 MR. SEGAL: Are you saying that you will</p> <p>20 not permit those questions?</p> <p>21 MR. BROOKS: So the record is clear,</p> <p>22 based on the argument that Mr. DiAdamo has made that</p> <p>23 these affidavits, or this area of questioning</p> <p>24 constitutes a blanket waiver of the privilege, I</p>

<p style="text-align: right;">234</p> <p>1 will object.</p> <p>2 MR. DIADAMO: For the record, that's not</p> <p>3 exactly my argument, but Mr. Brooks is free to make</p> <p>4 whatever objection he likes and state it on the</p> <p>5 record.</p> <p>6 A. So I cannot answer.</p> <p>7 Q. So let's move on from that, reserving all</p> <p>8 rights to ask about it at a future date if the</p> <p>9 privilege issue is ultimately resolved.</p> <p>10 Just to clear up a question in an area</p> <p>11 that I had. Prior to the May 2007 conference in the</p> <p>12 Ms. Traficanti workers' compensation matter, was she</p> <p>13 receiving benefits from the city?</p> <p>14 A. No.</p> <p>15 Q. And after that she was?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. You stated that in June 2008 the</p> <p>18 city terminated your representation of it?</p> <p>19 A. Correct.</p> <p>20 Q. How did you find this termination out?</p> <p>21 A. I initially received correspondence.</p> <p>22 Q. From whom?</p> <p>23 A. I received a -- I'm trying to figure out</p> <p>24 whether or not this is privileged or not. It was</p>	<p style="text-align: right;">236</p> <p>1 A. I believe it is not a state secret that the</p> <p>2 mayor has hiring and firing capabilities. I</p> <p>3 honestly don't know -- strike that. I know that I</p> <p>4 was disengaged by the city. And I know that over</p> <p>5 whatever period of time lots of people knew about</p> <p>6 it. Again, it was general conversation with a lot</p> <p>7 of other people just in the street about no longer</p> <p>8 doing work for the city.</p> <p>9 Q. Did the initial correspondence you received</p> <p>10 from the attorney then handling the Traficanti</p> <p>11 matter, did that reference all of your</p> <p>12 representation of city matters or just the</p> <p>13 Traficanti matter?</p> <p>14 A. Again, it is a specific conversation. I'm</p> <p>15 going to decline to answer at the moment.</p> <p>16 Q. And you received that, you said, in June of</p> <p>17 2008?</p> <p>18 A. Correct.</p> <p>19 Q. And you confirmed the contents of that with</p> <p>20 the mayor's office?</p> <p>21 A. I had communication with the city and</p> <p>22 turned over my files immediately.</p> <p>23 Q. Who did you turn over your files to?</p> <p>24 A. Mr. St. Pierre.</p>
<p style="text-align: right;">235</p> <p>1 from an outside source, but it was from another</p> <p>2 attorney.</p> <p>3 Q. Was it the attorney who took over the</p> <p>4 Traficanti matter?</p> <p>5 A. Yes.</p> <p>6 Q. What was that attorney's name?</p> <p>7 A. Ron St. Pierre.</p> <p>8 Q. Did you have any communication from any</p> <p>9 city official or employee informing you that you</p> <p>10 were no longer representing the city?</p> <p>11 A. At what time?</p> <p>12 Q. Ever after that initial correspondence</p> <p>13 from, where you initially learned that you were no</p> <p>14 longer representing the city.</p> <p>15 A. I had further communication regarding my</p> <p>16 status as representing the city.</p> <p>17 Q. With whom?</p> <p>18 A. Well, in an official capacity or general</p> <p>19 capacity? In an official capacity, there was only,</p> <p>20 in my opinion -- I was retained at the behest of one</p> <p>21 person, one office. Lots and lots of people knew</p> <p>22 about it at some point over however long it took.</p> <p>23 Q. So you were retained at the behest of one</p> <p>24 office, in your opinion?</p>	<p style="text-align: right;">237</p> <p>1 Q. How did you turn over your files?</p> <p>2 A. Physically. He came down immediately, and</p> <p>3 I boxed it up and handed it to him.</p> <p>4 Q. Did you retain copies of any of your files?</p> <p>5 A. I retained copies of some things.</p> <p>6 Q. What things?</p> <p>7 A. There wasn't always a rhyme or reason for</p> <p>8 what I retained copies of. Some things weren't</p> <p>9 specific to a particular file. I can't say there</p> <p>10 was a particular rhyme or reason about I copied this</p> <p>11 or that. Most things were simply turned over to</p> <p>12 Mr. St. Pierre.</p> <p>13 Q. Did you turn over your electronic files to</p> <p>14 him as well?</p> <p>15 A. I don't recall whether or not I turned over</p> <p>16 anything electronically. I think most of what I</p> <p>17 gave him was paper. Some of the paper stuff would</p> <p>18 have referenced electronic communication.</p> <p>19 Q. Did you retain electronic communication</p> <p>20 regarding the matters that you transferred to him?</p> <p>21 A. Most of that would have been emails. To my</p> <p>22 knowledge, I haven't deleted emails.</p> <p>23 Q. Did you retain drafts of pleadings and</p> <p>24 other filings?</p>

<p style="text-align: right;">238</p> <p>1 A. I'm sure I have. I try not to throw away. 2 Sometimes things get lost. I don't usually 3 intentionally throw away any electronic stuff. 4 Q. And likewise if you had scanned in a court 5 decision or a notice of some sort or opposing motion 6 or any of those sorts of things, you would not have 7 deleted those or thrown them away intentionally? 8 A. Not intentionally. Also again, back in 9 2008, it was not as digital as even I am now. 10 Scanning was not quite as prevalent as it is today, 11 for me was not as prevalent as it is for me today. 12 Q. Did anyone from the city tell you a reason 13 why you were disengaged? 14 A. Again, I'm going to defer answering that. 15 Q. Just for a clear record in terms of yes or 16 no, did anyone tell you or are you declining to 17 answer that? 18 A. Did anyone tell me? 19 Q. Why you were disengaged. 20 A. At what point? 21 Q. Let's start with June 2008. 22 A. No. 23 Q. At any point? 24 A. I suppose the answer is yes.</p>	<p style="text-align: right;">240</p> <p>1 present for any of this stuff. 2 Q. Do you believe that any particular event 3 precipitated your disengagement or termination? 4 A. You're asking me to speculate. Do I know 5 what they were thinking? No, I don't know what they 6 were thinking. Do I have my own set of thoughts and 7 beliefs? Yes. 8 Q. Why do you think you were terminated? 9 A. I believe that I was terminated for a 10 number of reasons of which this is, of which the 11 Traficanti case is a substantial piece, a primary 12 piece but not the only piece. Circumstances related 13 to not just the Traficanti case itself, but things 14 around the Traficanti case. That's why it is so 15 difficult to answer. There are many additional 16 layers here. 17 Q. Did you have any conversations with Frank 18 Bonet about why you were disengaged or terminated? 19 A. No. Just for clarity, Frank Bonet -- I 20 hope it is not '07, I think it is '08 -- he left the 21 city employ right around September 2008. It might 22 have been September 2007 but I think it was 23 September 2008. I'm not positive. 24 Q. Did you have any conversations with Richard</p>
<p style="text-align: right;">239</p> <p>1 Q. When? 2 A. The first time there was anything of 3 substance was the events related to the lawsuit. 4 Q. Meaning in August 2008 after the 5 broadcasts? 6 A. I heard in August 2008 that there were city 7 employees who had allegedly made statements about 8 me. After that all of this other stuff flows, 9 including the affidavits you've seen, and so on and 10 so forth. 11 Q. So when you were terminated or disengaged 12 in June 2008, you didn't go to anybody in the city 13 government to ask why? 14 A. No. 15 Q. On your own, did you have any suspicions of 16 why? 17 A. Yes. 18 Q. What were those? 19 A. I don't think I can reveal those without 20 revealing communications I had with people. 21 Q. So they were based on communications that 22 you had with people? 23 A. Everything I know was based on 24 communications I had with other people. I wasn't</p>	<p style="text-align: right;">241</p> <p>1 D'Agostino about why you were terminated or 2 disengaged? 3 A. No. 4 Q. Did you have any conversations with Michael 5 Sullivan about why you were terminated or 6 disengaged? 7 A. No. 8 Q. Who in city government did you have 9 conversations with about why you were terminated or 10 disengaged, the city government of Lawrence? 11 A. Again, give me a time frame. 12 Q. Ever. 13 A. Ever, there's been a lot of conversation 14 since. 15 Q. Between June 2008 and let's say the end of 16 2008. 17 A. A conversation with city employees? None 18 of it related specifically to -- if the question is 19 did somebody say to me you were disengaged by the 20 City of Lawrence because, that kind of a thing, I 21 did not have a conversation like that with anybody. 22 Certainly from things that have gone on, I made 23 inferences from what was going on as to what I 24 believed. Nobody came up and gave me a direct</p>

<p style="text-align: right;">242</p> <p>1 message.</p> <p>2 Q. How about in 2009, did you have receive, as</p> <p>3 you put it, a direct message?</p> <p>4 A. Since this lawsuit was filed, I have</p> <p>5 assiduously stayed away from involving the --</p> <p>6 addressing this issue with respect to the City of</p> <p>7 Lawrence intentionally.</p> <p>8 Q. Do you recall the date on which this</p> <p>9 lawsuit was filed?</p> <p>10 A. The date, no. I want to say October 17,</p> <p>11 2008.</p> <p>12 Q. October 2008 about?</p> <p>13 A. October 2008.</p> <p>14 Q. At the time you filed this lawsuit, did you</p> <p>15 have any specific knowledge from a city official as</p> <p>16 to why you were disengaged or terminated?</p> <p>17 A. Did I have information available? Yes.</p> <p>18 Did I have -- are you asking me if there was a</p> <p>19 meeting or conversation at which people sat down and</p> <p>20 said we are letting you go for X, Y and Z? No, that</p> <p>21 didn't occur.</p> <p>22 Q. How did you receive that information. You</p> <p>23 said you had some information as to why you were</p> <p>24 terminated. What was the source of that information</p>	<p style="text-align: right;">244</p> <p>1 Raytheon, whoever it is. Once you are in there you</p> <p>2 are in there. I'm sure for weeks, if not months,</p> <p>3 after all this happened, I would receive notices</p> <p>4 that should have gone to him. So I know there was</p> <p>5 some communication of that sort. I'm sure I saw Ron</p> <p>6 somewhere. I have no memory of having had specific</p> <p>7 conversations.</p> <p>8 Let me back up. When he came and took</p> <p>9 over the files, I had a conversation with him</p> <p>10 regarding things that were going on. After that I</p> <p>11 think that there was some communication, relatively</p> <p>12 minimal communication, some communication back and</p> <p>13 forth about substantive stuff, things that would</p> <p>14 help him keep up to speed on what was going on. But</p> <p>15 just trying to do the right thing, to make sure that</p> <p>16 nothing fell through the cracks. There was some of</p> <p>17 that, but there was not a ton.</p> <p>18 Fortunately, summers tend to be quieter</p> <p>19 in the comp world. I don't recall there being daily</p> <p>20 notices about concils, and conferences, and this,</p> <p>21 that and the other thing that were coming up. There</p> <p>22 was some but very sporadic, very informal.</p> <p>23 Q. Was there any written communication</p> <p>24 concerning the Traficanti matter between you?</p>
<p style="text-align: right;">243</p> <p>1 prior to filing this lawsuit in October of 2008?</p> <p>2 A. I'm trying to remember what I learned when.</p> <p>3 There was a reasonably substantial flurry of</p> <p>4 activity. Maybe the best way to answer is this.</p> <p>5 After I was terminated from the City of Lawrence in</p> <p>6 June of 2008, I assiduously sort of stayed away from</p> <p>7 anything that was going on. I would say hi to</p> <p>8 people and was pleasant and got along with and still</p> <p>9 get along with a number of the people there, but I</p> <p>10 did not discuss anything work-related.</p> <p>11 None of this was on my radar until I was</p> <p>12 informed of the broadcast. Then there were, as</p> <p>13 everybody here is aware, there were a number of</p> <p>14 communications back and forth between me, my office</p> <p>15 and Mr. Duggan. When those essentially broke down,</p> <p>16 that led to the filing of the lawsuit.</p> <p>17 Q. Did you have any communications with</p> <p>18 Mr. St. Pierre following the transition of the</p> <p>19 workers' compensation portfolio to him concerning</p> <p>20 the City of Lawrence?</p> <p>21 A. I imagine that I did. I don't recall. For</p> <p>22 example, there is, the way the comp system works is</p> <p>23 that you get in the system as the attorney for a</p> <p>24 particular entity, the City of Lawrence, whoever,</p>	<p style="text-align: right;">245</p> <p>1 A. Again, at what time period?</p> <p>2 Q. After he took over the matter in June of</p> <p>3 2008.</p> <p>4 A. Yes.</p> <p>5 Q. What was that?</p> <p>6 A. There may have been some others, I'm not</p> <p>7 positive. I don't believe that there was anything</p> <p>8 between June of 2008 and then sometime in 2010 --</p> <p>9 strike that. I take that back. In 2009 I believe,</p> <p>10 I want to say May of 2009, the April-May time frame,</p> <p>11 I received a telephone call from Michael Torrissi.</p> <p>12 He is a comp lawyer up in my area. I've known</p> <p>13 Michael for years and years. He represents mostly</p> <p>14 employees. I have had innumerable cases with him</p> <p>15 over the years.</p> <p>16 He called me up to say that he was now</p> <p>17 representing Andrea Traficanti and that he would be</p> <p>18 sending to me a subpoena to testify. He was giving</p> <p>19 me a courtesy call. I'm sure we had a conversation.</p> <p>20 I don't recall the specifics. I may have accepted</p> <p>21 service, but I'm not even sure if I did that. I</p> <p>22 contacted Ron St. Pierre to let him know. I had a</p> <p>23 conversation with Ron St. Pierre. Subsequently I</p> <p>24 appeared at the IAB, I believe it was May. That's</p>

<p style="text-align: right;">246</p> <p>1 something that would be on my calendar. I don't 2 remember the day. 3 Q. The IAB? 4 A. The Department of Industrial Accidents is 5 the workers' comp board. DIA, IAB for old people is 6 used interchangeably. But I did appear at the IAB 7 to be a witness. I never testified. But I 8 basically spent the day sitting there and twirling 9 my pencil. 10 Q. Did you observe the proceedings that day? 11 A. I did not, no. I was not permitted to. 12 Q. Do you know what the current status is of 13 the Traficanti comp matter? 14 A. Do I know? No. What I can say is that I 15 believe it is ongoing. The attorney handling the 16 case for Ms. Traficanti is still Mike Torrissi, at 17 least as of the last time I talked to him. I ran 18 into him at some point. I think we were -- it was 19 some offhand conversation that led me to believe 20 that things were still ongoing. 21 But I have assiduously stayed away from 22 discussions of any specifics about exactly where 23 things are. Because I've been called as a witness 24 and because of my involvement in this and other</p>	<p style="text-align: right;">248</p> <p>1 Q. Who work for the city, or worked for the 2 city in 2008. 3 A. There are literally thousands of employees 4 of the city. I have no idea. This has now been -- 5 as a result of this if nothing else, has been 6 publicized all over the place. I have no idea what 7 people believe. People may believe that as a result 8 of this. I don't know. That's part of the issue in 9 this case. I don't know what perceptions this has 10 all caused. This is one of my problems with this. 11 Q. Taking you back to August of 2008 before -- 12 let's say August 22nd, the day before the first 13 broadcast in this case, you believe that -- is it 14 your belief that everyone in the city was satisfied 15 with your handling of the Traficanti matter? 16 A. That's a question I cannot answer. I have 17 no idea what at that point people thought. You're 18 asking me to speculate about what thousands of 19 people potentially may or may not believe. I cannot 20 answer that. 21 Q. Do you claim at all the radio broadcasts in 22 August 2008 caused your termination from the city? 23 A. I was terminated before the broadcast. 24 Q. I understand.</p>
<p style="text-align: right;">247</p> <p>1 things, I did not want to mix all that stuff up. I 2 have tried to maintain a respectful distance. 3 Q. Have you offered any testimony or 4 statements in that matter since termination? 5 A. No one has asked me for one. 6 Q. So you have not. 7 A. No, I haven't. I was called in to be a 8 witness in something. To my knowledge, that case is 9 ongoing. To my knowledge, I could get a subpoena in 10 the future. I could speculate but that's all that I 11 know. 12 Q. Do you believe that it is false that there 13 were individuals who work for the City of Lawrence 14 who accused you of mishandling the Traficanti 15 matter? 16 A. Do I personally believe that it is false 17 that people did that? 18 Q. Yes. 19 A. I believe that to be the case. 20 Q. You believe that it is true that -- 21 A. No, I believe it is false that people 22 accuse me of throwing the Traficanti case. 23 Q. How about mishandle it? 24 A. Are there people who believe that?</p>	<p style="text-align: right;">249</p> <p>1 A. Yes. 2 Q. So you don't claim there's a prior causal 3 effect. 4 A. The broadcast itself? 5 Q. Yes. 6 A. No, I don't believe the broadcast caused my 7 termination. 8 Q. Have you ever been disengaged or terminated 9 by other clients? 10 A. Sure. I'm trying to think of who. 11 Q. Have you ever been sued by a client 12 concerning your representation of the client? 13 A. I don't think so; let me be sure. No, I 14 don't believe so. 15 Q. Has your conduct representing any other 16 client been, to your knowledge, at issue in a 17 lawsuit? 18 A. Not to my knowledge, no. 19 Q. Have you ever been the subject of a BBO 20 complaint, to your knowledge? 21 A. Yes. 22 Q. When? 23 A. Five or six years ago, maybe more than 24 that; mid-2000s. I don't remember the date. I</p>

<p style="text-align: right;">250</p> <p>1 think it was before all of this, but I couldn't say 2 with certainty. 3 Q. Who was the client? 4 A. It had to do with an estate. Very simply, 5 a woman had died. This is the 30,000-foot view. A 6 woman had died. We were probating her estate. One 7 of the heirs -- things were fine for a while. One 8 of the heirs who lived in California was behaving 9 very erratically and became very dissatisfied. I'm 10 not sure why. What I do know is that there was a 11 BBO complaint filed. I responded to it. It went 12 away. 13 I found out later that this woman in 14 California -- I don't know if this is true, but I 15 was told by somebody who was tangentially involved. 16 That the woman in California had been represented by 17 a lawyer and the lawyer in California had 18 precipitated the BBO complaint, and that that lawyer 19 had serious problems and that a substantial sum of 20 money went missing. Who knows if it was true or 21 not. I just know that in my opinion it was a 22 complaint and I responded in a letter and no action 23 was taken. 24 Q. Any other BBO complaints, to your</p>	<p style="text-align: right;">252</p> <p>1 with a copy of the actual audio recording. This is 2 my punctuations, paragraphs. I put them in there 3 for readability. 4 Q. I'm going to ask you to identify the 5 statements in this that you believe are defamatory. 6 We can take it paragraph by paragraph, but if you 7 could read through it first so that we can do it 8 more expeditiously. 9 (Pause.) 10 (Mr. Duggan and Mr. Knowles have entered 11 the room.) 12 Q. Have you finished reviewing it? 13 A. I have, yeah. 14 Q. So if you could, on the first page, can 15 identify anything that you believe is defamatory 16 toward you? 17 A. Well, it has to be taken in the context of 18 what was said at least with respect to the prior 19 broadcast. There are things in here that are since 20 represented to be incorrect or wrong let me take it 21 apart for you, if I can. 22 Q. Please. 23 A. In that first paragraph it says, the third 24 line from the bottom, just picking up the pieces so</p>
<p style="text-align: right;">251</p> <p>1 knowledge? 2 A. No. 3 (Marked, Exhibit 9, Transcript of 4 broadcast, August 30, 2008.) 5 Q. I've handed you Exhibit 9, which I will 6 represent is a printout of a transcript that you 7 actually sent to me yesterday of the August 30, 2008 8 broadcast of Paying Attention on WCAP 980 AM. Do 9 you have that in front of you? 10 A. I do. 11 Q. Do you recognize this? 12 A. I do. 13 Q. Do you know how this transcript was 14 created? 15 A. I don't know whether or not I sat down and 16 transcribed it or my secretary did and I looked at 17 it. It was generated by my office. I'm the one who 18 at the end of the day either prepared it or 19 confirmed that it was prepared correctly. I would 20 say, as I said in previous pleadings too, it is an 21 audio transcript. The punctuation is mine. I've 22 tried to make it as accurate as I can. I would 23 suggest that anybody who is concerned about the 24 accuracy thereof, I would be happy to provide them</p>	<p style="text-align: right;">253</p> <p>1 I don't have to read the whole thing. 2 Finding out what our source got correct 3 and what our source got wrong and by proxy I ended 4 up getting it wrong because my source gave it to me 5 and I gave it to you. Okay. The source issue 6 changed from the last broadcast to this broadcast. 7 I don't want to quote the words incorrectly. I 8 don't have the August 28th broadcast in front of me. 9 He claimed different sources than, interesting 10 enough, he is claiming a week later. 11 Q. Is that defamatory, do you believe? 12 A. Yes. He is exacerbating defamatory 13 statements causing further damage which related to 14 me. It is all part of the same defamation. 15 He also says, for what it is worth: One 16 thing we always want to do on this program is make 17 sure you have the accurate information, and I don't 18 mind if I'm wrong from time to time. I don't hide, 19 I don't care if I'm embarrassed. If we get it 20 wrong, we tell you we got it wrong. We'll be back 21 after this. 22 That paragraph is significant in that he 23 has, in fact, never corrected what it is that he 24 said. In fact, since that time he has continued to</p>

<p style="text-align: right;">254</p> <p>1 publish things that I believe are knowingly 2 incorrect.</p> <p>3 The following paragraph he talks about 4 something he got from a source. This variation on 5 what happened is different than what he had said the 6 previous week.</p> <p>7 He does discuss the fact that -- a 8 little bit further down -- we told you he makes a 9 hundred thousand dollars with the GLSD from -- maybe 10 I'm remembering this wrong, but from my 11 conversations doing the follow-up on that this week, 12 it turns out that well, he might have made a hundred 13 thousand but it was not in one year. We know how 14 the City of Lawrence pays their bills, blah, blah, 15 blah.</p> <p>16 Q. Do you contend that that statement, that 17 you made a hundred thousand dollars from the GLSD 18 but not in one year is false?</p> <p>19 A. No. I may have, and honestly I don't 20 remember now looking back. I may have made a 21 hundred thousand dollars from the GLSD in one year. 22 I'm not sure, just the way bills are paid and such. 23 And in candor and in the fullness of disclosure, Mr. 24 Duggan has published the GLSD bills.</p>	<p style="text-align: right;">256</p> <p>1 the people at the GLSD to find out what his actual 2 pay was. The correct and the accurate information I 3 believe is incorrect.</p> <p>4 The last paragraph, I have no knowledge 5 or opinion about that, about this relationship with 6 them at the lake.</p> <p>7 Q. It wasn't about you.</p> <p>8 A. It wasn't about me.</p> <p>9 Q. Do you suspect that any particular clients 10 of yours ceased using your services because of these 11 two broadcasts?</p> <p>12 A. I think I said this in my previous 13 deposition. I do not have any actual knowledge of 14 anybody either firing me or failing to hire me 15 because of this broadcast. But I don't know. I 16 wouldn't except it to be something that anybody says 17 or brings up. For example, I am well aware that the 18 GLSD is aware of these accusations. I'm also aware 19 of the fact that I've not been retained to do any 20 work by the GLSD since this time. But I am not 21 aware of anybody who is affirmatively refused to 22 hire me -- strike that. Nobody has ever come to me 23 and told me that they have not hired me or that they 24 have disengaged me because of this. But I don't</p>
<p style="text-align: right;">255</p> <p>1 What I'm saying is that here he does not 2 correct the fact -- he says it may have been this. 3 He doesn't say in fact that it was this, that he was 4 wrong. He does not correct, for example, the fact 5 that the accusation was I was making a hundred 6 thousand dollars for attending a meeting every two 7 months. It mentions it, but it doesn't fully 8 correct what was incorrect about the story.</p> <p>9 It wasn't necessarily the hundred 10 thousand dollars. I'm sure, without looking at it, 11 that I made over a hundred thousand dollars from the 12 GLSD over some period of time. My bigger issue was 13 that there was an allegation that I made it for 14 going to a meeting every two months. That was never 15 corrected. In some respects not correcting it 16 reinforces it.</p> <p>17 Q. In the interest of time, is there anything 18 in here that presents new allegedly false 19 information that is not derivative from the August 20 23rd broadcast?</p> <p>21 A. I believe it is incorrect that he said: 22 And so we are going to continue to research that 23 story. We will give you the accurate information as 24 we get it, as I confirm it. I will be talking to</p>	<p style="text-align: right;">257</p> <p>1 know and I can't know.</p> <p>2 Q. Who did you tell about the existence of 3 these broadcasts? I don't want to know about 4 conversations with your wife or your father.</p> <p>5 A. There are lots of people that know about 6 this lawsuit and so by definition would know about 7 the basis of it.</p> <p>8 Q. I'm asking who you would inform about it, 9 not just people who know about it from other 10 sources.</p> <p>11 A. Well, that's a hard question for me to 12 answer in that format. Here is why. For example, I 13 became aware that -- after this took place, given 14 the allegations that had been made, I attended a 15 meeting at the GLSD out of courtesy to them to let 16 them know that they had been implicated in this. 17 Part of the accusation, it not only defames me but I 18 think it potentially defames them, in the sense that 19 they were being presumably accused of something. By 20 paying some guy a hundred thousand dollars a year to 21 attend a meeting every two months doesn't make them 22 look very good. It suggests improper behavior, for 23 example, on their behalf. So I went in and made 24 them aware of this story.</p>

<p style="text-align: right;">258</p> <p>1 I have had innumerable conversations 2 over the years. I'm trying to put some sort of time 3 frame on it. Most people in Lawrence -- that's an 4 unfair statement. It seems like most people I know 5 are generally aware of all of this. I could try 6 listing, but I could just go through my mental list 7 and probably come up with hundreds of names. 8 Sometimes I've brought it up prophylactically. I 9 can't remember all of the circumstances in which I 10 have done it. There are other times where if I hear 11 someone mentioning the Valley Patriot I will address 12 it, because I think it is important for me to 13 address it head on so that I am being appropriately 14 forthright and honest with people, and I don't look 15 like I am hiding from something or hiding something. 16 I know that it is a somewhat convoluted 17 question (sic), but as I said, over the last however 18 many years, and by virtue of -- I mean, I'm not the 19 one who publicized the lawsuit. I didn't publicize 20 the broadcasts. All of that stuff was brought to 21 the greater world by, in most if not all instances, 22 in my opinion, by Duggan and the Patriot. 23 Q. Do you know whether WCAP 980 AM or 24 Merrimack Valley Radio LLC ever censored Mr. Duggan?</p>	<p style="text-align: right;">260</p> <p>1 entertainment, shock jockey kind of stuff. My guess 2 is -- and I don't know this to be true or not 3 true -- that he says stuff to get a rise, to be 4 controversial or whatever it is. So I don't always 5 know what to interpret as him mouthing off. 6 Sometimes he will say that he's breaking a news 7 story. In my case, for example, it is abundantly 8 clear that he was reporting a story, not just being 9 a shock jock. 10 Q. You said this is happening on his radio 11 station. You mean his radio program? 12 A. His radio program. I'm sorry, yes. He 13 says stuff sometimes. It is not always easy -- it 14 is almost impossible sometimes to interpret. 15 Sometimes he is just saying stuff to say stuff. 16 Sometimes he's acting at what he purports to be a 17 journalist or a news reporter or something like 18 that, and it goes back and forth. I don't know -- 19 that's a very long way of me saying I do not know 20 the truth yet about whether or not he has ever been 21 censored. 22 Q. What remedy are you seeking by this 23 lawsuit? 24 A. What remedy am I seeking? Primarily I am</p>
<p style="text-align: right;">259</p> <p>1 A. I don't. 2 Q. Do you have any evidence of them ever 3 censoring Mr. Duggan? 4 A. No, I have no information about them 5 censoring Mr. Duggan. 6 Q. Do you know whether the radio station ever 7 controlled Mr. Duggan's content on the Paying 8 Attention radio show? 9 A. I do not. Let me answer it this way. I am 10 not sure because I have not been privy to any 11 conversations that may have taken place between the 12 radio station and Mr. Duggan. I do know that 13 comments have been made. Strike that. I have a 14 memory of there being comments on the radio by 15 Mr. Duggan saying something along the lines of: 16 They don't want me to talk about that, they don't 17 want me to say this. I don't know if that's real or 18 just kind of filler conversation or just yapping. 19 Q. And you believe that in those statements 20 the "they" was the radio station administration? 21 A. Yes. But I don't know whether or not it 22 was real. To me, I don't know whether or not this 23 is accurate. But to me, Mr. Duggan, at least a 24 portion of his radio station seems to be more</p>	<p style="text-align: right;">261</p> <p>1 seeking the restoration of my reputation for the 2 incorrect statements that were made about me. I am 3 seeking damages that were done that result not only 4 in this initial radio broadcast but all of the stuff 5 that has happened since then. For example, 6 Mr. Duggan has decided it is good strategy to 7 exercise his supply of ink, in my opinion, to cause 8 further damage to me and my family to make me give 9 up or make me go away. All of those things are 10 attempts by him to cause further damage to which I 11 believe I am entitled to be compensated. 12 Q. Are you seeking damages for emotional 13 distress? 14 A. I don't know that you can separate from 15 the -- I don't think legally in Massachusetts you 16 separate damages of emotional distress from the 17 damages of defamation, or that you have to. I'm 18 seeing if I can parse this out correctly. 19 I guess the best I can say is that in 20 terms of the emotional distress claim, I have not 21 sought any medical treatment as a result of the 22 things that have happened in this lawsuit. 23 Q. Are you seeking damages for loss of income? 24 A. I am seeking -- the loss of income is</p>

<p style="text-align: right;">262</p> <p>1 something that I would intend to remedy under the 2 per se standard. I don't know who has not hired me 3 because of that has been -- 4 I don't know if it is just me, I'm 5 sorry; I'm finding the typing somewhat distracting. 6 It is impinging on my thought process. 7 MR. DUGGAN: From me or from him? 8 MR. DIADAMO: From you. I don't hear 9 him. 10 MR. SEGAL: For the record, there was 11 typing going on on a laptop while this answer was 12 going on. 13 A. What I was saying is that I don't know who 14 has hired me or failed to hire me because of what 15 has been said or done over the intervening six years 16 or so. 17 Q. Do you contend that people have hired you 18 as a result of this? 19 A. I don't know. I have no idea. I don't 20 tend to think so. That's the whole purpose, as I 21 understand it, of the per se standard, is that when 22 you are dealing with things like reputation, I can't 23 poll everybody. Literally it is worldwide. This is 24 stuff that is published on the Internet.</p>	<p style="text-align: right;">264</p> <p>1 Q. If all of the defendants defaulted and 2 everyone says we are admitting liability, what's 3 your case on damages? What would you seek? What 4 amount of money would make you whole? 5 A. That's an interesting questions. 6 Q. I try asking interesting questions in 7 depositions periodically. 8 A. I don't know the answer to the question. I 9 don't think there is an amount of money that would 10 make me whole. Because I don't know and I will 11 never know how much -- I have a sense of for me how 12 much time, effort and aggravation this has caused 13 me. But there's no way for me to quantify out in 14 the outside world how much damage this has caused to 15 me. Again, that's why I think the law is as clear 16 as it is that nobody can be expected to know the 17 answer to that question. 18 I'm confident that it has caused me real 19 damage. As we know, Mr. Duggan publishes thousands 20 and thousands and thousands of newspapers. He goes 21 on a radio station and he reaches thousands and 22 thousands and thousands of people. Yes, I don't 23 have a lot of clients in Shanghai, China. But 24 anybody who wanted to look me up, if they Google my</p>
<p style="text-align: right;">263</p> <p>1 Theoretically everybody with an Internet connection 2 has access to this information. I can't go out and 3 ask six billion people what they think about this 4 and whether or not it would affect their opinion. 5 Q. What percentage of your client base is 6 outside of the United States? 7 A. A small portion, a few. 8 Q. 300 cases over your career? 9 A. No. 10 Q. 50? 11 A. No, a small portion. 12 Q. Outside of the Commonwealth? 13 A. The vast majority would be in the Essex 14 County. The vast majority would be in Greater 15 Lawrence. I'm just saying I can't -- it would 16 easier for me to quantify, but I don't know how many 17 people even live in Essex County. I can't ask those 18 hundreds of thousands of people door to door what do 19 you think as a result of all of this. 20 Q. Are you seeking specific damages for loss 21 of earning capacity? If the answer is the same, you 22 can just say the same. 23 A. Generally the same, no. I cannot quantify 24 a dollar amount that I've lost as a result of this.</p>	<p style="text-align: right;">265</p> <p>1 name, which is an unusual name, and I don't believe 2 that's an uncommon occurrence, they are going to 3 come across this. If they do, that may give them 4 pause. That may cause them some consternation. 5 I don't know. That is the frustration. 6 That is why I am so vexed on restoring my 7 reputation. That is why it is so important to me 8 that I get that problem, that issue as resolved and 9 as fixed as I can. It is no solution would be 10 perfect. But the restoration of my reputation is 11 primarily what I seek. 12 How that gets done, I don't think it 13 could ever be done perfectly. I assume that there 14 would be some amount of money that it wouldn't 15 bother me anymore because that I could go to live on 16 my own Caribbean island. But I don't think that's 17 going to happen. I want my reputation back; I want 18 it unsullied; I want it fixed. 19 Q. Are you seeking injunctive relief in this 20 lawsuit? 21 A. I don't believe there's any potential 22 injunctive relief. My injunctive relief would be 23 some sort of prior restraint. I have not asked for 24 that, despite what Mr. Duggan might believe. I'm</p>

<p style="text-align: right;">266</p> <p>1 speaking for him. He is here. I do believe deeply, 2 deeply in the First Amendment. As much as I would 3 like prior restraint, and as much as I believe that 4 in this case there are compelling arguments to be 5 made for prior restraint, I have not asked for that. 6 I would not ask for that. 7 Other than that, I can't stop him from 8 doing what it is that he does. I was and am hopeful 9 that other people could dissuade him. I seem to be 10 in the worst position to do so. 11 Q. Is there a relief that the court can order 12 that would, as you put it, give you your reputation 13 back in this lawsuit? 14 A. Wholly, no; partially, yes. 15 Q. What is that partial relief? 16 A. Partial relief would be that I'm right, 17 that I did not throw the Traficanti case in 18 particular. All the other stuff goes along with 19 that piece by piece, if you would like. To me the 20 threshold issue has been and remains that I am 21 unwilling to let lie out there the allegation that I 22 threw a case that I did not throw. 23 MR. SEGAL: That's all the questions 24 that I have today, with the caveat that I will be</p>	<p style="text-align: right;">268</p> <p>1 A. What I believe that I said or intended to 2 say was that simply that the judge does not seem to 3 have addressed the issue that was, in my opinion, 4 primarily before him, which was that the radio 5 station had filed a motion to compel. As I said 6 before, after they had filed their motion to compel, 7 we had reached an agreement that we would put 8 together -- 9 Q. I agree with you. What I was getting 10 toward was, has the City of Lawrence not waived 11 their privilege? 12 A. Can you ask that again? 13 Q. You state that the City of Lawrence refuses 14 to have you testify for them; is that correct? 15 A. No. 16 Q. Have they exercised their privilege? 17 A. Have they exercised their privilege? 18 Q. Their attorney-client privilege. 19 A. They have waived the privilege. 20 Q. How have they waived that privilege? 21 A. In writing. 22 Q. Have you seen the writing? 23 A. Yes. 24 Q. Before Judge Lang I had made the argument</p>
<p style="text-align: right;">267</p> <p>1 suspending my examination until we have the document 2 production as well as the inevitable need to address 3 these privilege issues. I know other people have 4 questions also. It is a good time for a short 5 break. 6 (A recess was taken.) 7 8 9 EXAMINATION 10 BY MR. CARUSO: 11 Q. Good afternoon. 12 A. Good afternoon. 13 Q. I call your attention to Exhibit 5, the 14 rulings and order exhibit. 15 A. Hold on for a second until I have the 16 document in front of me. Yes. 17 Q. During your testimony today you stated that 18 you were confused by the judge's ruling and that you 19 in fact have been told that there is a waiver -- 20 that the privilege has not been waived by the City 21 of Lawrence. Is that correct? 22 A. I did not say that. I didn't say that I 23 was confused by the judge's ruling, I don't believe. 24 Q. You said confused things a bit?</p>	<p style="text-align: right;">269</p> <p>1 in court that we had never seen that writing, that 2 we didn't know that privilege had been waived. Have 3 you shown any counsel that writing? 4 A. It is -- I don't honestly recall if I have 5 the original or Attorney Boddy has the original. He 6 is the city's attorney. 7 Q. Nobody around this table has seen that 8 original waiver; is that correct? 9 A. I don't know whether or not that's the 10 case. 11 Q. Can you within the next couple of days get 12 me a copy of that writing? 13 A. Absolutely, yes. 14 Q. Thank you. 15 A. Again, it had been given to me. I still 16 intend -- 17 Q. It was not produced in court. That would 18 certainly help the judge's rulings and order. We 19 have not seen it around this table. We have not 20 seen this mysterious writing from the City of 21 Lawrence. If we could see it. 22 A. Okay, that can be done immediately. 23 Q. Yesterday you had a conversation with my 24 client Tom Duggan at City Hall; is that correct?</p>

<p style="text-align: right;">270</p> <p>1 A. Yes.</p> <p>2 Q. Can you tell us what that conversation was</p> <p>3 about?</p> <p>4 A. Sure. I happen to be in the city</p> <p>5 attorney's office. I actually heard Mr. Duggan's</p> <p>6 voice. And so I left my meeting with Attorney</p> <p>7 Boddy. I walked out. Mr. Duggan said: Do you want</p> <p>8 me to hold the elevator for you? I don't remember</p> <p>9 the sum and substance of every piece of the</p> <p>10 conversation. He and I sat and talked for a little</p> <p>11 while about a variety of things, our opinions of</p> <p>12 what was going on.</p> <p>13 Q. For how long did you talk?</p> <p>14 A. I don't remember how long.</p> <p>15 Q. Wasn't it an hour and a half?</p> <p>16 A. I don't know if it was that long. It was a</p> <p>17 while.</p> <p>18 Q. It was over an hour?</p> <p>19 A. It may have been; it was a while.</p> <p>20 Q. Did you talk about any settlement to this</p> <p>21 case? Just yes or no.</p> <p>22 A. He told me what he wanted.</p> <p>23 Q. Did you tell him what you wanted? Just yes</p> <p>24 or no.</p>	<p style="text-align: right;">272</p> <p>1 as a threshold issue -- the conversation got off a</p> <p>2 little bit where he said to me that under no</p> <p>3 circumstances would he ever apologize in the</p> <p>4 newspaper.</p> <p>5 Q. Did you ask him to apologize in the</p> <p>6 newspaper?</p> <p>7 A. At some point that was part of the</p> <p>8 conversation. I said that was a threshold issue for</p> <p>9 me; not the only issue, but a threshold issue for me</p> <p>10 is that since this thing had been exacerbated in the</p> <p>11 newspaper that I felt that it would, that as a</p> <p>12 threshold issue it had to be addressed in the</p> <p>13 newspaper.</p> <p>14 Q. How was --</p> <p>15 A. Mr. Caruso, if you're going to ask me a</p> <p>16 question --</p> <p>17 Q. You go on and on all day.</p> <p>18 A. I'm allowed to --</p> <p>19 Q. I'm allowed to ask the questions and you</p> <p>20 are allowed to answer.</p> <p>21 A. We will end this in ten seconds. This is</p> <p>22 not a place where you are going to put me in a box</p> <p>23 and not allow me to finish a question. You have now</p> <p>24 cut me off three or four times.</p>
<p style="text-align: right;">271</p> <p>1 A. I'm just trying to remember. It was a</p> <p>2 conversation. It wasn't a negotiation. I don't</p> <p>3 think I expressed to him exactly I want A, B, C, D.</p> <p>4 I expressed that there was some -- let me try to</p> <p>5 explain it a little bit. One of the things that</p> <p>6 came up was that my understanding is that Mr. Duggan</p> <p>7 was a little bit torqued off that at the mediation</p> <p>8 we were not able to resolve this.</p> <p>9 Q. Stop, stop. Did you tell him what would</p> <p>10 settle the case for you?</p> <p>11 A. I'm trying to answer your question.</p> <p>12 Q. First of all, did you tell him what would</p> <p>13 settle the case for you, yes or no? Then you can go</p> <p>14 on to the second question.</p> <p>15 A. No.</p> <p>16 Q. You didn't tell him that if he published</p> <p>17 something in the newspaper that that would satisfy</p> <p>18 you?</p> <p>19 A. No. If you want me to expound on it, I</p> <p>20 can. It was not that simple.</p> <p>21 Q. Tell us what you told Mr. Duggan in your</p> <p>22 opinion would settle the case, would settle this</p> <p>23 case.</p> <p>24 A. I did not tell him that. I told him that</p>	<p style="text-align: right;">273</p> <p>1 Q. You are not answering the questions.</p> <p>2 A. You're not going to cut me off again.</p> <p>3 Q. I will continue to do that if you don't</p> <p>4 answer the question. You are not answering the</p> <p>5 question. You are going off in your own direction.</p> <p>6 If you just answer my question, we'll get out of</p> <p>7 here quickly and promptly with correct answers.</p> <p>8 A. No, Mr. Caruso, you asked me a question.</p> <p>9 I'm going to explain to you. You are not going to</p> <p>10 take a piece of something and use a piece as the</p> <p>11 whole. Okay? You asked me the question. I get to</p> <p>12 answer it. You don't cut me off again. I'm going</p> <p>13 to explain to you right now -- I'm comfortable doing</p> <p>14 this -- cut me off again, and the deposition ends</p> <p>15 that minute. Do you understand?</p> <p>16 Q. No. I'll ask my questions and I hope that</p> <p>17 you answer them.</p> <p>18 A. I'm going to finish answering the question</p> <p>19 you already asked me. I don't even remember what</p> <p>20 the question is now because you have gone on this</p> <p>21 silly colloquy.</p> <p>22 Q. It is not my silly colloquy. You don't</p> <p>23 answer the questions.</p> <p>24 MR. DiADAMO: Could you please read back</p>

<p style="text-align: right;">274</p> <p>1 the question Mr. Caruso asked.</p> <p>2 (Question read: Did you ask him to</p> <p>3 apologize in the newspaper?)</p> <p>4 A. That was part of what I asked, yes.</p> <p>5 Q. What would you consider to be an apology in</p> <p>6 the newspaper?</p> <p>7 A. I believe that at some point I wrote</p> <p>8 something out and circulated it. I don't remember</p> <p>9 the exact words. Frankly, I would not just simply</p> <p>10 spout out and say what I'm thinking. If this is a</p> <p>11 negotiation or a discussion, then I would sit down,</p> <p>12 put on my lawyer hat rather than my witness hat, and</p> <p>13 craft what it is I wanted. But I believe that</p> <p>14 something along those lines as a threshold matter</p> <p>15 was circulated prior to the mediation.</p> <p>16 Q. Would you accept such an apology on the</p> <p>17 radio?</p> <p>18 A. Only on the radio?</p> <p>19 Q. Only on the radio?</p> <p>20 A. No.</p> <p>21 Q. Why not?</p> <p>22 A. Because this has been -- this has been</p> <p>23 exacerbated dramatically in print, in the Valley</p> <p>24 Patriot, on the website, in Twitter, everything</p>	<p style="text-align: right;">276</p> <p>1 responsible, adult conversation.</p> <p>2 Q. Do you believe that it was appropriate to</p> <p>3 talk to my client without me present?</p> <p>4 A. He claimed that it was. He said that it</p> <p>5 was.</p> <p>6 Q. Did you ask him?</p> <p>7 A. Yes.</p> <p>8 MR. DUGGAN: That's just a lie.</p> <p>9 Q. Did you ever speak to Paula Porten about</p> <p>10 the Andrea Traficanti case?</p> <p>11 A. Yes.</p> <p>12 Q. When?</p> <p>13 A. I don't recall.</p> <p>14 Q. Where did you talk to her about the case?</p> <p>15 A. At one point she asked me about it when I</p> <p>16 believe I ran into her at the Board.</p> <p>17 Q. What did you tell her about the Andrea</p> <p>18 Traficanti case?</p> <p>19 A. Nothing of substance. She was aware of it.</p> <p>20 She was curious about it. I did not offer any</p> <p>21 substantive information about that.</p> <p>22 Q. Who was the judge in the Andrea Traficanti</p> <p>23 case?</p> <p>24 A. I believe it was John Preston.</p>
<p style="text-align: right;">275</p> <p>1 else. Therefore, for me to do the impossible job of</p> <p>2 actually getting my reputation back or trying the</p> <p>3 best I could to do so, then it needs to be as widely</p> <p>4 disseminated as possible.</p> <p>5 Q. During yesterday's discussion or</p> <p>6 negotiation or talk that you had with my client, did</p> <p>7 you say that Mr. Duggan's -- did you tell him that</p> <p>8 your only avenue in this case is to, quote, "cause</p> <p>9 as much damage as possible"?</p> <p>10 A. Out of context, no.</p> <p>11 Q. In context, would you have said that?</p> <p>12 A. I don't understand the question.</p> <p>13 Q. You said out of context. So what if it was</p> <p>14 in context?</p> <p>15 A. The context was, it was an hour and a half,</p> <p>16 or however long it was, discussion. The context was</p> <p>17 a long discussion. I'm not sure that I could, but</p> <p>18 if we were to put together the entire</p> <p>19 conversation -- which I thought we were both acting</p> <p>20 like appropriate, civilized people. I understood at</p> <p>21 least part of it to be a discussion about where this</p> <p>22 was going. And I understood that Mr. Duggan was</p> <p>23 inquiring about possible resolution of this. I felt</p> <p>24 that it was polite and appropriate to have a</p>	<p style="text-align: right;">277</p> <p>1 Q. Did Mayor Sullivan help you prepare your</p> <p>2 presentation in the Andrea Traficanti case?</p> <p>3 A. I'm going to assert the privilege.</p> <p>4 Q. Did Paula Porten call your office to get</p> <p>5 the IAB order information on the Traficanti case?</p> <p>6 A. Can you restate that? I'm not sure I</p> <p>7 understand what you're asking.</p> <p>8 Q. Did Paula Porten call your office to get</p> <p>9 the IAB order information on the Traficanti case?</p> <p>10 A. Are you asking whether she called to get</p> <p>11 the conference order? The order information, I</p> <p>12 don't understand what that is.</p> <p>13 Q. The conference order, yes.</p> <p>14 A. The conference order, I don't believe so.</p> <p>15 Q. Did you ever disclose the conference order</p> <p>16 to Paula Porten?</p> <p>17 A. No.</p> <p>18 Q. Did anyone in your office ever disclose a</p> <p>19 conference order to Paula Porten?</p> <p>20 A. I can't imagine so, no.</p> <p>21 Q. How much was the order from the conference?</p> <p>22 A. I don't remember the exact amount at this</p> <p>23 point. The way conference order works, they will</p> <p>24 award a level of benefits from a date, usually</p>

<p style="text-align: right;">278</p> <p>1 continuing until the time of the hearing. And that 2 order would usually be -- in this case I can tell 3 you that it was an order for temporary total 4 benefits, which would be from the date of the 5 alleged injury to date and continuing, which would 6 have been 60 percent of her average weekly wage. 7 Q. Was this order related to stress claims? 8 A. Yes. 9 Q. How long have you been practicing in the 10 workers' compensation area? 11 A. Probably over 20 years. I don't remember 12 when I first did it. It was when I was -- they 13 changed the workers' comp law in '91, which is when 14 I became a lawyer. Sometime thereafter I started 15 doing some workers' compensation in my old job. 16 Q. In your experience, as the result of a 17 conference hearing on stress claims, is it usual 18 that the judge would make an award at that time? 19 A. You want general speculation about any and 20 all claims? 21 Q. No, in your experience. 22 A. It is an unanswerable question. 23 Q. Isn't it true that IAB judges never issue 24 conference awards for stress claims? Don't they</p>	<p style="text-align: right;">280</p> <p>1 Q. Wasn't Andrea Traficanti just laid off? 2 A. Again, we are getting into privilege 3 issues. I do not believe that to be the case. 4 Q. Okay. If she was laid off instead of 5 fired, aren't layoffs allowed under Chapter 152? 6 A. Layoffs allowed? Again, ask me a general 7 or a specific question? 8 Q. General. 9 A. General question, layoffs are allowed in 10 Massachusetts, they are allowed in the world as far 11 as I know. 12 Q. But if an employee is fired, then there's 13 much more liability under the Workers' Compensation 14 Act when she applies for benefits; isn't that 15 correct? 16 A. The way you have stated it is, doesn't 17 really make sense in the context of workers' comp. 18 I'm not sure I can answer the question as stated. 19 Q. Isn't it important that the attorney 20 representing a client know whether she has been 21 fired or laid off in a workers' compensation case? 22 A. Yes. 23 Q. Briefly could you explain the Jennifer 24 Pedallaro case.</p>
<p style="text-align: right;">279</p> <p>1 wait for the actual hearing? 2 A. No. 3 Q. In your experience have you ever been 4 awarded for a stress claim after a conference, an 5 order from a judge? 6 A. In my experience? 7 Q. In your experience. 8 A. Yes. 9 Q. How many times? 10 A. I'm not sure. I don't know how many comp 11 cases I've done. Not as many stress cases, but I 12 couldn't give you a good estimate. It has happened, 13 absolutely. 14 Q. Is it true that in a stress case that after 15 a conference hearing there is usually a denial? 16 A. I'm not aware of any statistics that exist 17 on stress cases in Massachusetts. Every case is 18 different. It is a meaningless question. 19 Q. Prior to the conference hearing, was Andrea 20 Traficanti fired from City Hall? 21 A. Ask the question again, please. 22 Q. Yes. Prior to the conference hearing, was 23 Andrea Traficanti fired from her City Hall position? 24 A. Yes.</p>	<p style="text-align: right;">281</p> <p>1 A. Briefly, Jennifer Pedallaro was a assistant 2 city clerk who was allegedly harassed and subjected 3 to inappropriate behavior by the then city clerk. 4 She filed a workers' compensation claim as well as a 5 third-party claim against the city. 6 Q. Did you ever talk to Paula Porten about the 7 Jennifer Pedallaro case? 8 A. Frankly, it was a long time ago. I would 9 see Paula on occasion. She would make some inquiry 10 about it. She appeared to have some knowledge about 11 it. She would come up and ask me questions. I 12 would do what I said I did before, politely decline 13 to offer anything substantive. I got along with 14 Paula and had pleasant conversations with her but 15 always put off, would not give into the reporter's 16 side of answering specific questions. 17 Q. Did you ever discuss the Pedallaro case 18 with Paula Porten in an Industrial Accident Board 19 courtroom? 20 A. I don't recall. I imagine if I talked to 21 her -- I don't think -- I rarely if ever saw 22 Ms. Porten outside the Department of Industrial 23 Accidents. I imagine any conversation that I had 24 with her were in or around the board.</p>

<p style="text-align: right;">282</p> <p>1 Q. Did you ever get Paula Porten details of 2 the settlements in the Pedallaro case? 3 A. No. 4 Q. Did you ever say, quote, "A hearing on the 5 matter was scheduled for October 12, 2007 where it 6 was believed by City Hall insiders that the judge 7 was going to award the double benefits," end of 8 quotation marks, to Paula Porten in the Pedallaro 9 case? 10 A. Can you read the quote again? 11 Q. "A hearing on the matter was scheduled for 12 October 12, 2007 where it was believed by City Hall 13 insiders that the judge was going to award the 14 double benefits." 15 A. Did I ever say that to Paula Porten? 16 Q. Yes. 17 A. No. 18 Q. Was there a settlement in the Jennifer 19 Pedallaro case? 20 A. Yes. 21 Q. How much was that for? 22 A. There were two cases. There was the 23 workers' comp case and there was a third-party case. 24 About which one are you asking?</p>	<p style="text-align: right;">284</p> <p>1 negotiation was approved on November 30, 2007, would 2 you agree with that? 3 A. I don't think that was the exact date but 4 it was in that neighborhood. 5 Q. And the amount was \$610,000. Would you 6 remember that? 7 A. I believe that number is incorrect. I'm 8 not a hundred percent sure, but I'm reasonably 9 confident that number is incorrect. 10 Q. Do you remember that a news story appeared 11 in the Valley Patriot newspaper in January of 2008 12 regarding the Pedallaro case? 13 A. Always a difficult question to answer. Did 14 I remember? 15 Q. Do you know now? 16 A. I'm aware now. 17 Q. Did you and Paula Porten talk about the 18 article that appeared in the 2008 case -- strike 19 that. Were you the source of the article that 20 appeared in the Valley Patriot about the Pedallaro 21 case in January 2008? 22 A. Was I the source? 23 Q. Yes. 24 A. No.</p>
<p style="text-align: right;">283</p> <p>1 Q. How about the first case? 2 A. The third-party case? 3 Q. Yes. 4 A. I don't remember. It was a substantial sum 5 of money. It was paid over a number of years. That 6 case I believe, although I'm not a hundred percent 7 sure, but I'm reasonably confident that was handled 8 Foley Hoag. 9 Q. How about the lump-sum case? 10 A. I did that. 11 Q. How much was that amount? 12 A. Two answers. One is that I don't recall 13 specifically what the number was. I am also under 14 the impression -- I was not involved in it -- that 15 the third-party case had some sort of 16 confidentiality-type agreement that went with it or 17 some sort of language like that. Without the city 18 here to release me, I'm reluctant to talk about it. 19 To my knowledge, I believe it to be a 20 public document. I think those numbers are 21 ascertainable. I have a vague memory of what they 22 are, but I can't remember specifically at the 23 moment. 24 Q. If I was to tell you that the settlement</p>	<p style="text-align: right;">285</p> <p>1 Q. Did you tell Paula Porten that the lump sum 2 of \$610,000 was approved on November 30, 2007 in the 3 Pedallaro case? 4 A. No. 5 Q. Did you and Paula Porten ever talk about 6 the article that appeared in the January 2008 Valley 7 Patriot newspaper? 8 A. Ever? 9 Q. Ever. 10 A. Yes. 11 Q. When? 12 A. I don't remember the exact date. As I said 13 before, I would see Paula from time to time. I 14 think there was some claim that we discussed it 15 sometime between January of '07 and the time that 16 this lawsuit was filed. We may have. But it was 17 not of any real substance. I knew of the article at 18 some point. It was my opinion that a portion of the 19 article, at least a portion of it was incorrect, but 20 I didn't really -- it was not important, necessary 21 or appropriate for me to change it. I just knew 22 that. Whether or not I explained that to Paula, at 23 the time I don't remember. 24 Q. What portion of it was incorrect?</p>

<p style="text-align: right;">286</p> <p>1 A. My memory of it without reading it, maybe 2 you have it front of you, at least the numbers were 3 incorrect. 4 Q. The article quoted that information was 5 believed by, quote, "City Hall insiders." Were you 6 the City Hall insider that gave the information to 7 Paula Porten? 8 A. No. 9 Q. Did you ever tell Paula Porten with 10 information regarding the Jennifer Pedallaro case? 11 A. No. 12 Q. Did you ever speak to Paula Porten by 13 telephone about the Jennifer Pedallaro case? 14 A. The only reason there's a brief hesitation, 15 occasionally she would represent employees against 16 the city. The phone would ring and I would talk to 17 her. Maybe she would ask me a question and I would 18 ignore it. Is that a conversation about the 19 Pedallaro case? Theoretically, yes. Was anything 20 of substance ever discussed? No. I can't recall 21 saying anything of substance. She may have asked me 22 can you tell me something about it, looking for 23 information, and I would laugh it off saying I 24 can't.</p>	<p style="text-align: right;">288</p> <p>1 of those radio programs that they were in a hot-tub 2 when my father called. That was a conversation that 3 my father was a part of. 4 I know I had some brief conversation 5 with Paula sometime shortly thereafter, but that was 6 not a terribly substantive conversation. At that 7 point I was less directly involved and my father was 8 more directly involved in that. 9 Q. What did you say to Paula? 10 A. Honestly, I don't recall the substance of 11 the conversation. I believe -- because I was 12 agitated, that I indicated that I was agitated. I 13 think I indicated that it was untrue. And that was 14 about it at that point. 15 Q. What did Paula tell you? 16 A. She didn't tell me anything other than she 17 was looking for a way to get out of this problem. 18 That's not artfully said. Those were not her exact 19 words. She wanted to nip the problem in the bud; 20 what do I need to do to nip the problem in the bud. 21 Q. When she said that, what did you say? 22 A. I don't believe I was involved at that 23 point. I believe it was a conversation between my 24 father and Ms. Porten at that time. I was not a</p>
<p style="text-align: right;">287</p> <p>1 Q. So you never gave confidential information 2 regarding the Jennifer Pedallaro case to Paula 3 Porten. 4 A. No. 5 Q. Did you ever speak with Paula Porten about 6 the radio statement that Mr. Duggan made about your 7 termination at City Hall? 8 A. Yes. 9 Q. What was the substance of that at least one 10 conversation? 11 A. I'm a little confused. 12 Q. What did you talk about? 13 A. When you say one conversation? 14 Q. Was there more than one conversation? 15 A. I've spoken to Paula more than once since 16 all this stuff happened. 17 Q. Give us the substance of one conversation 18 about the radio broadcast that Mr. Duggan made. 19 A. What I'm trying to remember is I know, for 20 example, that during the initial communications 21 between, I think it was my father and Mr. Duggan, 22 they were down in Florida, I don't recall whether or 23 not Paula was involved in any of those 24 conversations. I think Mr. Duggan even said on one</p>	<p style="text-align: right;">289</p> <p>1 part of that conversation. 2 Q. Did she offer any solutions? 3 A. Again, it is not appropriate for me to say. 4 I was not part of the conversation. I don't know 5 precisely what she offered. I have some information 6 from my father. My opinion that's privileged 7 information. 8 Q. Did she offer any information to you 9 directly -- not to your father, through your father 10 but in direct conversations with you, did she make 11 any proposals to settle this case before it got out 12 of hand? Did she offer you anything? 13 A. I don't remember if it was to me or to my 14 father. I have a memory of her suggesting that she 15 would -- if it would make everything go away that 16 she would try to have the sources identified. 17 Q. Did she identify any of the sources to you? 18 A. To me at that time, no. 19 Q. Has she ever identified any of the sources 20 to you at any time? 21 A. Any substantive conversations I have had 22 with her took place after the lawsuit was filed. 23 I'm trying to remember the order in which things 24 happened here. A lot happened in a short period of</p>

<p style="text-align: right;">290</p> <p>1 time. It has been a long time. I'm trying to make 2 sure I get it right. Let me try it this way. I'm 3 trying to get it in the right order. 4 There was some initial conversations 5 early on in the game. The lawsuit was filed. There 6 was shortly thereafter deposition notices sent out. 7 I know that Paula Porten simply didn't show up for 8 her deposition. I think -- it is in the docket 9 somewhere -- I think she might have filed a motion 10 to quash the day of the deposition or something like 11 that. But then she decided to just not show up. 12 After that I've seen her a few times, mostly at the 13 board. 14 It would be my position that any 15 conversations I had with her would be work product 16 in terms of preparing this lawsuit. 17 Q. Was Paula Porten at that time representing 18 Mr. Duggan in this lawsuit? 19 A. Ms. Porten has never indicated to me that 20 she was Mr. Duggan's lawyer. 21 Q. So -- 22 A. Let me be clear. I was aware that they had 23 a personal relationship, but it was never: I'm 24 calling as representative of either Tom Duggan or</p>	<p style="text-align: right;">292</p> <p>1 A. Sure. If she is a potential -- she is a 2 witness in this case. So if I go out and talk to 3 people as prospective witnesses then that's part of 4 my preparation, my file; the same way that you have 5 stuff in your file that presumably is protected by 6 work product and you wouldn't necessarily share with 7 me. 8 Q. When was the last time you spoke with Paula 9 Porten? 10 A. I saw Paula maybe three weeks ago, 11 somewhere in January, just at the board. 12 Q. When was the last time you talked to Paula 13 Porten about this case? 14 A. A while ago. I would have to say last year 15 certainly. When, I'm not exactly sure. 16 Q. Did you sue Paula Porten? 17 A. I tried to. 18 Q. Is she a defendant in this case? 19 A. No. 20 Q. What do you mean you tried to? 21 A. When I filed the initial motion to amend, 22 she was named. She filed -- her lawyer, I believe 23 at the time Eric Finmore, I'm not positive but I 24 believe so -- all the defendants filed essentially</p>
<p style="text-align: right;">291</p> <p>1 the Valley Patriot or something else. 2 Q. So in your mind there's no attorney-client 3 privilege between Paula Porten and Tom Duggan? 4 A. I have no opinion about that because I do 5 not know what the relationship is or was during that 6 or this time period. 7 Q. So did Paula Porten ever disclose any 8 source to you? 9 A. I'm sorry? 10 Q. Did Paula Porten ever disclose any source 11 to you? 12 A. Any source of? You mixed -- 13 Q. I'll repeat it. I'm sorry. Did Paula 14 Porten ever disclose any source that you were 15 seeking in connection with this lawsuit today? 16 A. Directly to me? 17 Q. Directly to you. 18 A. I'm just trying to differentiate. As I 19 said, I know that she spoke to my father especially 20 initially more than she spoke with me. I would 21 believe that any conversation that I had with her 22 certainly after the pendency of this lawsuit would 23 be protected by the work product doctrine. 24 Q. Can you explain that?</p>	<p style="text-align: right;">293</p> <p>1 motions in opposition to the motion to amend the 2 complaint. Hers was the only one allowed. 3 Q. Why did you name her as a defendant? 4 A. Because she had been identified by 5 Mr. Duggan as a source in his deposition. 6 Q. Are you now saying that she is going to be 7 called as a witness for you at the trial? 8 A. For me? 9 Q. Yes. 10 A. I don't know that I would say she would be 11 called as a witness for me. I would expect that she 12 would be called as a witness in this trial. 13 Q. So did Paula Porten ever disclose any 14 sources to you? 15 A. I believe I've answered that question. 16 Q. Well, you said that you couldn't answer it 17 because she's a potential witness and it's part of 18 the work product. If she's not going to be a 19 witness for you and she's a defendant in your suit, 20 then I don't see how you can claim that as a 21 responsive answer. 22 A. I've interviewed in many cases, not just 23 this one, I interview witnesses where I don't 24 necessarily take their deposition, or I speak to</p>

<p style="text-align: right;">294</p> <p>1 people about their expected testimony. In my 2 opinion that's my business. My guess is that you 3 have greater access in terms of what Ms. Porten is 4 going to say. You have more access to her than I 5 do. 6 Q. Did Paula Porten call you to offer sources 7 in connection with this case? 8 A. Me personally? 9 Q. You personally. If you called her as a 10 witness, fine. But did she ever call you and offer 11 to you sources in this case? 12 A. The best I remember now, as I said before, 13 I don't know if she spoke to me or my father, but I 14 believe there was a conversation early on about 15 whether or not, if Mr. Duggan was willing to 16 identify his witnesses, whether or not that would 17 make this problem go away. I think that 18 conversation was with my father. I may have been 19 present. I honestly don't remember. 20 Q. So what you're saying is it is not really a 21 defamation suit against Mr. Duggan. It is really an 22 action to find out who the sources were, is that 23 correct, what you just said? 24 A. Yes.</p>	<p style="text-align: right;">296</p> <p>1 Q. Once you know who the sources are, will you 2 dismiss the complaint against Mr. Duggan and the 3 radio station? 4 A. Not necessarily. 5 Q. Why not necessarily? 6 A. Are the sources going to, for example, this 7 is not the only requirement, but are the sources 8 going to come out and say that they have knowledge 9 that I threw the Traficanti case as a threshold 10 matter. Then I would make a decision from there. 11 I'm not willing to negotiate or figure this out at a 12 deposition. I'm happy to discuss that with you in a 13 settlement matter. This to me is not really 14 deposition fodder. 15 Q. The statement made on the radio by 16 Mr. Duggan was that he was telling his listeners 17 that he had heard around City Hall that you were 18 fired for throwing the Traficanti case. Is that 19 correct? 20 A. That is a vague paraphrasing. The precise 21 words are important. 22 Q. It wasn't Mr. Duggan himself stating that 23 he believed that you threw the Traficanti case? 24 A. I don't know that.</p>
<p style="text-align: right;">295</p> <p>1 Q. Okay. 2 A. Clearly we went through the whole up and 3 down to the Appeals Court for the issue of me to be 4 able to identify Mr. Duggan's sources. Clearly that 5 was part of what was going on there. 6 Q. If Mr. Duggan had told you the sources, 7 right off the bat you would have not sued 8 Mr. Duggan? 9 A. Assuming that the sources corroborated that 10 they were, in fact, the ones who said it, if 11 Mr. Duggan had identified sources and the sources 12 admitted that they said it and that he had a 13 credible reason to -- I think what we are talking 14 about now is the very narrow issue of the Traficanti 15 matter. Then I was more concerned with whoever it 16 is that published that. Even based on that August 17 30th thing that we read, it was my understanding 18 that Mr. Duggan was interested in whether or not his 19 sources had lied to him and if they had he would out 20 them. 21 Q. Do you know who the sources are now? 22 A. I have a belief as to who the sources are. 23 That has been challenged and convoluted to some 24 degree.</p>	<p style="text-align: right;">297</p> <p>1 Q. But the statement made on the radio was 2 that he had heard that around City Hall people were 3 talking about that you had thrown the Traficanti 4 case. 5 A. I don't have the transcript in front of me. 6 We can pull it out in two seconds if you would like. 7 The transcript is what it is. 8 Q. Did you ever tell Paula Porten your 9 reaction to the radio statement that Mr. Duggan 10 made? 11 A. I don't recall specifically. I can't 12 imagine I didn't. 13 Q. Did you tell her that you were upset? 14 A. Again, I don't specifically recall. Yeah, 15 I was upset. If that came through, I'm not 16 surprised. 17 Q. You said earlier that you were agitated? 18 A. I was, yeah, sure. 19 Q. Who were you agitated against? 20 A. Initially? I didn't know Mr. Duggan at all 21 at that point. I was agitated, just agitated at the 22 world agitated. Again, I didn't know Mr. Duggan. I 23 did not know whether or not that was something that 24 he had made up out of whole cloth in which case I</p>

<p style="text-align: right;">298</p> <p>1 was mostly agitated at him. I didn't know if there 2 were two, discrete, individual people who had come 3 and said that; in which case I would have been 4 primarily agitated with them. I would have and 5 still am somewhat agitated with Mr. Duggan because I 6 do not agree at all with his philosophy that as a 7 journalist he hears one side of the story and 8 reports it and does not corroborate it with the 9 other side because he doesn't want them to 10 contradict it. If he had called me up before he 11 made the proclamation, then things may have turned 12 out differently. I consider that to be responsible 13 journalism.</p> <p>14 Q. I would like to focus back in 2008 and not 15 about what's written today. Back in 2008 were you 16 agitated at the time you heard the radio broadcast?</p> <p>17 A. Oh, yeah.</p> <p>18 Q. Were you really upset at Mayor Sullivan?</p> <p>19 A. Mayor Sullivan?</p> <p>20 Q. Were you happy with him?</p> <p>21 A. It is an imprecise question in the sense 22 that I was aggravated with Mayor Sullivan for a 23 variety of reasons, including some very public ones. 24 I thought Lawrence was in bad shape.</p>	<p style="text-align: right;">300</p> <p>1 Mr. Sullivan in particular.</p> <p>2 Whoever said this, it was clearly -- not 3 clearly. It was, I was inferring from the 4 statements that had been made that it was somebody 5 in the Sullivan administration. To my knowledge, 6 while a lot of people knew about the case, very few 7 people would have known the details in the case, 8 would have been in any position to make any sort of 9 judgment about my involvement in the case. Nobody 10 had actually seen much of what had happened. I was 11 aggravated because in my opinion that there was, 12 and, in fact, actually there is nobody else on the 13 planet Earth that knows everything that happened 14 that I did except me.</p> <p>15 Q. Were Tom Schiavone and Mike Sweeney part of 16 the Sullivan administration also?</p> <p>17 A. Yes.</p> <p>18 Q. After Mr. Duggan's radio statements about 19 your firing at City Hall, did you say, quote: "It 20 is my mission in life to destroy the mayor and 21 Sweeney's lives and put them in jail"?</p> <p>22 A. No.</p> <p>23 Q. You never said that?</p> <p>24 A. No.</p>
<p style="text-align: right;">299</p> <p>1 Q. Mayor Sullivan was your boss?</p> <p>2 A. No, not at that time. I was no longer 3 working for the city in August of 2008. I had no 4 relationship whatsoever with Michael Sullivan at 5 that point.</p> <p>6 Q. Did you ever vent to Paula Porten about 7 your feelings about Mayor Sullivan and his 8 administration?</p> <p>9 A. At any time?</p> <p>10 Q. Back in 2008.</p> <p>11 A. I don't think so. I don't generally talk 12 about my clients if I can avoid doing so. There 13 would be no reason.</p> <p>14 Q. Did you ever tell Paula Porten that you 15 were really upset at the Sullivan administration?</p> <p>16 A. I think what I said to Paula Porten at some 17 point was that I was really upset with what was 18 going on. I didn't know who the sources were. And 19 if it had been -- I have no evidence to this right 20 now -- but if it had been Michael Sullivan, for 21 example, who had gone to Mr. Duggan and said DiAdamo 22 threw the Traficanti case, then I would have been 23 agitated with him. I think that is what I 24 expressed. I don't think it was with respect to</p>	<p style="text-align: right;">301</p> <p>1 Q. You never said that to Paula Porten?</p> <p>2 A. That?</p> <p>3 Q. That.</p> <p>4 A. No.</p> <p>5 Q. Did you say something similar?</p> <p>6 A. Similar? No. I was agitated. I don't 7 remember the exact conversation. The tenor of any 8 conversation that I had with her was simply that I 9 was really angry about what was being said. And I 10 think it has been borne out in the last six years, I 11 was going to get to the bottom of it. It was my 12 impression that anybody who did that to me, anybody 13 who made what you yourself described to the Appeals 14 Court as a horrible statement about me was going to 15 be held accountable.</p> <p>16 Q. Did you ever say you would, quote, "do 17 whatever was necessary to destroy and ruin the mayor 18 and Sweeney"?</p> <p>19 A. No.</p> <p>20 Q. You never said that. You just mentioned 21 that you would be upset and agitated. Were you 22 upset with Mayor Sullivan?</p> <p>23 A. When?</p> <p>24 Q. 2008. I called him Mayor Sullivan. He was</p>

<p style="text-align: right;">302</p> <p>1 a former mayor. Were you upset with the former 2 Mayor Sullivan? 3 A. He was still mayor in 2008. Time frame? 4 Q. July of 2008, were you upset at him? 5 A. At that point, no, not particularly. I 6 don't think anyone is ever happy when they get 7 terminated. I wasn't happy, but I'm a big boy, 8 moving on. 9 Q. Were you upset with Tom Schiavone? 10 A. No. For the most part I got along pretty 11 well with Tom. 12 Q. Were you upset with Mike Sweeney? 13 A. Not particularly. Honestly, I didn't know 14 Mike Sweeney all that well. I didn't have a lot of 15 contact with him. 16 Q. Were you upset with the former mayor 17 Michael Manzi? 18 A. William Manzi? 19 Q. William Manzi, yeah; too many Manzis. 20 A. No. Again, not on my radar screen for 21 anything to be upset about. I wasn't thrilled 22 because we had lost the LaRiviere case back in I 23 think early '06. I think we could have worked out a 24 better resolution in that matter. I wasn't thrilled</p>	<p style="text-align: right;">304</p> <p>1 MR. CARUSO: We are going to reconvene. 2 We are going to suspend today and reconvene at a 3 later date with all counsel's approval. 4 MR. COHEN: Yes. 5 MR. BROOKS: Yes. 6 MR. SEGAL: Yes. 7 (4:00 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">303</p> <p>1 about it, but I don't think I gave 32 seconds worth 2 of thought to it. I didn't love his position. In 3 fact, I think I probably -- strike that. I remember 4 meeting with him at some point to discuss some 5 GLSD-related matters. It may have been before the 6 LaRiviere stuff. I have a feeling that it was 7 after. That's life. 8 Q. You named Tom Schiavone and Mike Sweeney 9 and William Manzi as defendants in this case? 10 A. Correct. 11 Q. Why? 12 A. Because they were identified by Mr. Duggan 13 as sources. They provided affidavits to you. I am 14 lead to believe that they are fundamentally 15 responsible for potentially providing information to 16 Mr. Duggan that I believe is defamatory. 17 Q. Do you want to hold him up to ridicule and 18 scorn in the community? 19 A. No, that is not my intent. 20 Q. What is your intent? 21 A. My intent is first and foremost, not 22 entirely, but first and foremost to repair my 23 reputation to the extent possible. 24 (Discussion off the record.)</p>	<p style="text-align: right;">305</p> <p>1 CERTIFICATE OF COURT REPORTER 2 3 4 5 6 I, David A. Arsenault, Registered 7 Professional Reporter, do certify that the 8 deposition of WILLIAM H. DIADAMO, in the matter of 9 DiAdamo v Duggan, et al., on February 4, 2014, was 10 stenographically recorded by me; that the witness 11 provided satisfactory evidence of identification, as 12 prescribed by Executive Order 455 (03-13) issued by 13 the Governor of the Commonwealth of Massachusetts, 14 before being sworn by me, a Notary Public in and for 15 the Commonwealth of Massachusetts; that the 16 transcript produced by me is a true and accurate 17 record of the proceedings to the best of my ability; 18 that I am neither counsel for, related to, nor 19 employed by any of the parties to the above action; 20 and further that I am not a relative or employee of 21 any attorney or counsel employed by the parties 22 thereto, nor financially or otherwise interested in 23 the outcome of the action. 24 25 Transcript review was requested of the reporter. 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p> <p style="text-align: right;">February 13, 2014</p> <p>David A. Arsenault, RPR</p>

Exhibits: 1-2

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COMMONWEALTH OF MASSACHUSETTS

Essex County

Superior Court

WILLIAM H. DiADAMO,

Plaintiff

vs.

Docket No. 08-1931D

THOMAS J. DUGGAN, JR.,

VALLEY PATRIOT, INC.,

MERRIMACK VALLEY RADIO, LLC,

MICHAEL SWEENEY,

WILLIAM MANZI, and

THOMAS SCHIAVONE,

Defendants

DEPOSITION OF FRANK BONET-ROSADO

Wednesday, February 12, 2014, 10:10 a.m.

Lawson & Weitzen, LLP

88 Black Falcon Avenue, Suite 345

Boston, Massachusetts

----- David A. Arsenault, RPR -----

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<p style="text-align: right;">2</p> <p>1 APPEARANCES: 2 William H. DiAdamo, Esq. 3 William H. DiAdamo, LLC 4 40 Appleton Street 5 Lawrence, Massachusetts 01840 6 978-229-2345 Fax 888-345-1124 7 william@diadamo.com 8 appearing pro se 9 10 City of Lawrence, Legal Department 11 Raquel Ruano, Esq. 12 200 Common Street 13 Lawrence, Massachusetts 01840 14 978-620-3061 Fax 978-722-9130 15 rruano@cityoflawrence.com 16 for Frank Bonet-Rosado, as an employee 17 of the City of Lawrence 18 19 Peter J. Caruso, Esq. 20 Caruso & Caruso, LLP 21 68 Main Street 22 Andover, Massachusetts 01810 23 978-475-2200 Fax 978-475-1001 24 pcarusosr@carusoandcaruso.com for Thomas J. Duggan, Jr. Allan L. Knowles, Esq. The Law Office of Allan Knowles 300 Brickstone Square, Suite 201 Andover, Massachusetts 01810 781-850-6394 (Cell) knowleslawoffice@aol.com for Valley Patriot, Inc.</p>	<p style="text-align: right;">4</p> <p>1 PROCEEDINGS - 10:10 a.m. 2 ----- 3 FRANK BONET-ROSADO, sworn 4 ----- 5 EXAMINATION 6 BY MR. DICKISON: 7 Q. Good morning. 8 A. Good morning. 9 Q. I represent Merrimack Valley Radio LLC, 10 also known as WCAP, a radio station that broadcasts 11 out of Lowell. It has been sued in a case brought 12 by Attorney Bill DiAdamo. The matter is pending in 13 Essex Superior Court. I'm going to ask you a series 14 of questions today about some subjects in that case. 15 Before we begin in earnest, could you state your 16 name for the record. 17 A. Frank Bonet. 18 Q. What is your current residential address? 19 A. 33 Dartmouth Street in Lawrence, 20 Massachusetts. 21 Q. Do you have any plans to move from that 22 address? 23 A. No. Not unless I retire. 24 Q. Before we go any further, we should</p>
<p style="text-align: right;">3</p> <p>1 APPEARANCES (Continued): 2 J. Mark Dickison, Esq. 3 Joshua Segal, Esq. 4 Lawson & Weitzen, LLP 5 88 Black Falcon Avenue, Suite 345 6 Boston, Massachusetts 02210 7 617-439-4990 Fax 617-439-3987 8 mdickison@lawson-weitzen.com 9 jsegal@lawson-weitzen.com 10 for Merrimack Valley Radio, LLC 11 12 Steven J. Brooks, Esq. 13 Brooks & Crowley LLP 14 The Ames Schoolhouse Office Center 15 450 Washington Street, Suite LL9 16 Dedham, Massachusetts 02026 17 781-251-0555 x106 Fax 781-251-0552 18 stevenbrooks@brooksandcrowley.com 19 for Michael Sweeney 20 21 Young B. Han, Esq. 22 Davids & Cohen 23 40 Washington Street, Suite 20 24 Wellesley, MA 02481 781-416-5055 Fax 781-416-4344 yhan@davids-cohen.com for William Manzi ALSO PRESENT: Thomas J. Duggan, Jr. Michael Sweeney</p>	<p style="text-align: right;">5</p> <p>1 probably put some stipulations on the record. 2 MR. DICKISON: The usual stipulations 3 that we will reserve all objections, except as to 4 form and motions to strike, until the time of trial? 5 MS. RUANO: Sure. 6 MR. DICKISON: We'll have the witness 7 read and sign the transcript within 30 days after it 8 is delivered to you. 9 MS. RUANO: Sure. 10 MR. DICKISON: We'll waive any 11 requirement that he sign the deposition before a 12 notary. 13 Is that okay with counsel as well? 14 MR. DiADAMO: Good. 15 MR. HAN: Yes. 16 Q. Mr. Bonet, where are you currently 17 employed? 18 A. The City of Lawrence, personnel department. 19 Q. How long have you been employed there? 20 A. As a personnel director, I started in 21 September of 2004 until September 2008. And then I 22 returned to the City of Lawrence after working with 23 the federal government and IRS on January 4th, 2010 24 to the present.</p>

<p style="text-align: right;">6</p> <p>1 Q. When you returned, what position did you 2 return to at the city? 3 A. Acting personnel director and then 4 personnel director. 5 Q. I want to briefly ask you some questions 6 about your background. Where were you born and 7 raised? 8 A. Born in north New Jersey. I was raised all 9 over the place. 10 Q. Did you attend high school somewhere? 11 A. Yes. 12 Q. Where did you attend and graduate? 13 A. I attended in Puerto Rico. I didn't 14 graduate. I joined the service at the age of 17. I 15 finished my high school at the end of my service. 16 Q. When did you serve in the military? 17 A. From April of 1981 to May 1996. 18 Q. What branch of the military did you serve? 19 A. United States Army. 20 Q. When you left in 1996, what were the terms 21 of your disposition? 22 A. Honorable discharge, retired. 23 Q. When you were serving in the United States 24 military, did you have any training or experience</p>	<p style="text-align: right;">8</p> <p>1 A. After that I was hired with the Lawrence 2 Public Schools as a human resource generalist. 3 Q. Roughly what was the time period that you 4 worked for the Lawrence Public Schools? 5 A. 1998 until September 2004 when I was 6 promoted to the personnel director position in city 7 side. 8 Q. When you worked for the Lawrence Public 9 Schools, were you actually employed by the City of 10 Lawrence at that time? 11 A. Yes. 12 Q. Who were you reporting to when you worked 13 for Lawrence Public Schools? 14 A. Human resources director, Salvatore 15 Pertralia. 16 Q. Did you report to Mr. Pertralia the entire 17 time that you worked for the Lawrence Public 18 Schools? 19 A. Yes. 20 Q. When you moved to your position for the 21 City of Lawrence, who did you then report to? 22 A. The mayor, who at that time was Michael 23 Sullivan. 24 Q. Can you just describe for me when you</p>
<p style="text-align: right;">7</p> <p>1 that relates to your current job as personnel 2 director? 3 A. Yes. My advanced individual training was 4 75 D, a personnel records specialist, from there I 5 progressed to personnel actions specialist, 6 personnel management specialist, working at a PAC, 7 personnel action center, in different areas, taking 8 care of records, officers, orders, that type of 9 thing. 10 Q. Was that one of your primary duties when 11 you were in the military? 12 A. Yes. 13 Q. When you left the military in 1996, was 14 that essentially your job function? 15 A. Yes. 16 Q. And when you left the military, what did 17 you do for employment next? 18 A. I worked for several temp agencies. I was 19 hired as a temporary administrative assistant for a 20 company called C.L.A.S.S. Incorporated, Citizens 21 League for Adult Special Services in Lawrence. I 22 was promoted to director of services and then human 23 resource generalist. 24 Q. What did you do after that position?</p>	<p style="text-align: right;">9</p> <p>1 started at your position, you were promoted in 2 September of 2004, your position was personnel 3 director? 4 A. Yes. 5 Q. Can you describe for me at that point in 6 time, assuming it might be slightly different from 7 what you do today, at that point in time, September 8 of 2004, what were your duties and responsibilities 9 in your position as personnel director? 10 A. General duties is recruitment, health 11 insurance, benefits, grievances, arbitrations, 12 depositions, personnel files, personnel actions, 13 salary, compensation classification. Just normal, 14 general personnel. 15 Q. Do you recall in September of 2004 16 approximately how many employees that you were 17 responsible for, keeping their personnel files? 18 A. Yes. At that time it was approximately 19 350. At this point it is about 900. 20 Q. During the time period that you worked for 21 the City of Lawrence from September of 2004 to 22 September 2008, did your duties and responsibilities 23 change in any significant way? 24 A. No.</p>

<p style="text-align: right;">10</p> <p>1 Q. Did your job title change during that time 2 period? 3 A. No. 4 Q. At some point in time -- let me ask the 5 question. Initially when you first took the job, 6 the mayor was Michael Sullivan. Was there some 7 point in time when there was another mayor? 8 A. Yes. I left in 2008 to go work with the 9 IRS and returned in 2010, January, under mayor 10 William Lantigua. 11 Q. Throughout the time period of September 12 2004 to September 2008, Michael Sullivan was at all 13 times the mayor of Lawrence? 14 A. Correct. 15 Q. What was the reason that you left your 16 employ in September of 2008? 17 A. There were a couple of reasons. I made 18 those verbally known to the mayor then. Then a 19 short letter that said thank you for your time but 20 didn't put the reasons. Looking back, I barely 21 remember what those reasons were. I was 22 disappointed on some of the leadership on the 23 finance and some of the things that were occurring, 24 and things they wouldn't support for a 21st century</p>	<p style="text-align: right;">12</p> <p>1 A. In the workers' comp area. 2 Q. How was that? Was it the fact that 3 Attorney DiAdamo was representing the City of 4 Lawrence in workers' compensation matters? 5 A. Yes. When I was working for the school 6 department, he was also the workers' comp attorney, 7 so when I transferred to the city the whole workers' 8 comp is all together. He was still the attorney 9 there. 10 Q. So my understanding from your answer is 11 that you first had dealings with Mr. DiAdamo in your 12 position as human resources person at the Lawrence 13 public school system? 14 A. I knew him. I didn't have dealings with 15 him. The workers' comp person was Ruth McGrath. I 16 knew of him because we would talk about, Ruth and 17 myself would talk about things in the office, 18 including workers' comp. We were both managers in 19 the office. She would bounce things off me. That's 20 how I came to know of him. 21 Q. Was there any point in time in your 22 position as an employee of the Lawrence Public 23 Schools or personnel director of the City of 24 Lawrence that you began to regularly deal with</p>
<p style="text-align: right;">11</p> <p>1 HR that people were not taking seriously, and budget 2 and manpower and better software, things like that. 3 Q. Were any of the reasons you left the employ 4 of the City of Lawrence having to do with the case 5 of Andrea Traficanti? 6 A. No. 7 Q. Did any of the reasons you left the employ 8 of the City of Lawrence back in September of 2008 9 have to do with any allegations or claims brought by 10 Bill DiAdamo? 11 A. No. 12 Q. Are you familiar with the plaintiff in this 13 case, Bill DiAdamo? 14 A. Yes. 15 Q. When did you first meet Mr. DiAdamo? 16 A. I'm not quite sure. 17 Q. Let me ask you this, it may be an easier 18 way. At some point in time by virtue of your 19 position of being the personnel director for the 20 City of Lawrence, did you come to have any 21 interaction or dealings with Attorney DiAdamo? 22 A. Yes. 23 Q. Can you explain what those interactions 24 were?</p>	<p style="text-align: right;">13</p> <p>1 Mr. DiAdamo? 2 A. Yes, and that would be as personnel 3 director. 4 Q. Can you just describe for me as personnel 5 director, I understand you began your position in 6 September of 2004, what were the dealings that you 7 had with Mr. DiAdamo? 8 A. Sure. I had a benefits coordinator by the 9 name of Judy Perkins who dealt with most of our 10 workers' comp. She was directly involved in 11 communicating with Bill. The personnel director is 12 responsible for signing any invoices of workers' 13 comp, whether it be prescriptions, doctor visits, 14 testifying at the Industrial Accident Board, normal 15 duties of workers' comp. Sometimes I had 16 conversations about any settlements that came from 17 the judge or something like that. I would have to 18 bring it to the mayor or to the finance director to 19 try to find funds to do that. 20 Q. How often did you work with Mr. DiAdamo, if 21 you can characterize it, during this time period of 22 September 2004 to September 2008? 23 A. I don't understand. On a daily basis? 24 Q. Yes, if you can give me a sense of how</p>

<p style="text-align: right;">14</p> <p>1 often you were doing it.</p> <p>2 A. Right now it is like twice, three times a</p> <p>3 week that there's some communication on workers'</p> <p>4 comp. It depends how many cases there were at the</p> <p>5 time. If there was low count, it was low</p> <p>6 communication. If it was a high count, there were a</p> <p>7 lot of things to do.</p> <p>8 Q. Let me skip ahead. Are you currently</p> <p>9 working with Attorney DiAdamo?</p> <p>10 A. Yes.</p> <p>11 Q. Is he currently representing the City of</p> <p>12 Lawrence?</p> <p>13 A. Yes.</p> <p>14 Q. In what capacity does he represent the City</p> <p>15 of Lawrence?</p> <p>16 A. Our legal representative in workers' comp.</p> <p>17 Q. Is he the only legal representative the</p> <p>18 city has for workers' comp?</p> <p>19 A. We do have a company called Stephenson and</p> <p>20 Brooks, making sure that the payments made are in</p> <p>21 accordance with the workers' comp law, not excess.</p> <p>22 As far as legal representatives before the judge, it</p> <p>23 is Mr. Bill DiAdamo only. There was someone else in</p> <p>24 between time.</p>	<p style="text-align: right;">16</p> <p>1 were going to be representing the city's workers'</p> <p>2 comp. I got a copy of it after the fact. I don't</p> <p>3 know if it was considered a termination or not.</p> <p>4 Q. At that point in time, it would have been</p> <p>5 Mayor Michael Sullivan?</p> <p>6 A. Correct.</p> <p>7 Q. Did you ever have any discussions with</p> <p>8 Mayor Sullivan at the time as to why Mr. DiAdamo was</p> <p>9 no longer the legal representative for the City of</p> <p>10 Lawrence on workers' comp matters?</p> <p>11 A. No.</p> <p>12 Q. Let me just ask you generally, are you</p> <p>13 aware that there's a workers' comp claim made by a</p> <p>14 woman named Andrea Traficanti?</p> <p>15 A. Yes.</p> <p>16 Q. That claim was something that Mr. DiAdamo</p> <p>17 handled on behalf of the City of Lawrence?</p> <p>18 A. I believe so, yes.</p> <p>19 Q. Were you involved with overseeing or</p> <p>20 managing the defense of Ms. Traficanti's claim</p> <p>21 against the City of Lawrence?</p> <p>22 A. Yes, as personnel director, yes.</p> <p>23 Q. Did you have any discussions with</p> <p>24 Mr. DiAdamo regarding the subject of his defense of</p>
<p style="text-align: right;">15</p> <p>1 Q. I understand. I'll ask you that. Going</p> <p>2 back to this time period of 2004 to 2008, was there</p> <p>3 a time period where Mr. DiAdamo stopped being the</p> <p>4 legal representative for the City of Lawrence?</p> <p>5 A. Yes.</p> <p>6 Q. Approximately when was that, if you</p> <p>7 remember?</p> <p>8 A. I couldn't tell you an exact date. It was</p> <p>9 2008.</p> <p>10 Q. Are you aware of the reasons as to why</p> <p>11 Mr. DiAdamo stopped being the legal representative</p> <p>12 for the City of Lawrence at that time?</p> <p>13 A. No.</p> <p>14 Q. Were you involved in that decision at all?</p> <p>15 A. No.</p> <p>16 Q. Do you know who was involved with that</p> <p>17 decision?</p> <p>18 A. No.</p> <p>19 Q. Was it your understanding that Mr. DiAdamo</p> <p>20 was discharged from his duties as the legal</p> <p>21 representative of the City of Lawrence in 2008?</p> <p>22 A. I'm not sure if he was discharged or a</p> <p>23 change of attorney. All I know is that a letter</p> <p>24 came from the mayor about a new attorney saying they</p>	<p style="text-align: right;">17</p> <p>1 the city against Ms. Traficanti's workers' comp</p> <p>2 claim?</p> <p>3 A. I might have had -- I don't remember the</p> <p>4 content of it -- as I do with every case.</p> <p>5 Q. Did you ever, in the time period that</p> <p>6 Mr. DiAdamo was representing the City of Lawrence</p> <p>7 with respect to Ms. Traficanti's claim, did you ever</p> <p>8 have any conversations with him in which you</p> <p>9 expressed your disapproval with his performance in</p> <p>10 the case?</p> <p>11 MS. RUANO: I'm going to ask him not to</p> <p>12 divulge any communications between attorney-client.</p> <p>13 I'm going to direct him not to answer that.</p> <p>14 MR. DICKISON: Let me ask the question</p> <p>15 slightly differently for now.</p> <p>16 Q. At this point I just want a yes or no</p> <p>17 answer. Your attorney can instruct you whether or</p> <p>18 not she wants you to answer it or not.</p> <p>19 Yes or no; did you ever have any</p> <p>20 conversations with Attorney DiAdamo in which you</p> <p>21 expressed an opinion regarding his performance with</p> <p>22 respect to his legal defense and representation on</p> <p>23 behalf of the City of Lawrence with respect to the</p> <p>24 claim brought by Andrea Traficanti in 2008?</p>

<p style="text-align: right;">18</p> <p>1 MS. RUANO: I'm going to object to form. 2 Can you repeat that question? 3 MR. DICKISON: Sure. 4 Q. Yes or no; did you ever have a conversation 5 with Attorney DiAdamo in which you expressed an 6 opinion concerning his performance with respect to 7 his defense of the City of Lawrence against the 8 claim of Andrea Traficanti? 9 MR. DiADAMO: Objection. 10 MS. RUANO: I object. 11 You don't have to answer that. 12 Q. Do you know who Michael Sweeney is? 13 A. Yes. 14 Q. Who is Michael Sweeney? 15 A. Michael Sweeney is a former planning 16 director for the City of Lawrence, former school 17 committee member. I believe he's still a Lawrence 18 resident. 19 Q. Did you ever have any conversations with 20 Michael Sweeney concerning Attorney DiAdamo's 21 performance regarding his defense of the City of 22 Lawrence regarding the claim of Andrea Traficanti? 23 MS. RUANO: Go ahead and answer. 24 A. I can't remember. I can't recall if I did</p>	<p style="text-align: right;">20</p> <p>1 while he was at the City Lawrence? 2 A. Not directly. 3 Q. What was Thomas Schiavone position? 4 A. He was acting economic development director 5 for the mayor's office. 6 Q. Do you recall whether or not you ever had 7 any discussions with Thomas Schiavone concerning the 8 claim of Andrea Traficanti? 9 A. No, I don't recall. 10 Q. Was it ever brought to your attention by 11 either Thomas Schiavone or Michael Sweeney that they 12 had had a meeting with Attorney DiAdamo regarding 13 his representation of Andrea Traficanti at any point 14 in the time period when Mr. DiAdamo was defending 15 the Traficanti case? 16 A. Can you repeat that? 17 Q. Sure. Were you ever notified that Attorney 18 DiAdamo, Michael Sweeney and Thomas Schiavone had a 19 meeting or conference at City Hall regarding the 20 defense of the Andrea Traficanti case? 21 A. I don't recall that or the meeting itself. 22 Q. Do you recall whether or not either 23 Mr. Sweeney or Mr. Schiavone ever reported to you 24 that it is their opinion that Attorney DiAdamo was</p>
<p style="text-align: right;">19</p> <p>1 or not. 2 Q. Do you recall if you had any dealings -- 3 strike that. Do you recall if Michael Sweeney was 4 at all involved in defending the claim of Andrea 5 Traficanti back in 2008? 6 A. No. I don't know. 7 Q. Do you deny that you ever told Michael 8 Sweeney that you were upset that Attorney DiAdamo 9 had, quote/unquote, thrown the case of Andrea 10 Traficanti? 11 MR. DiADAMO: Objection. 12 MS. RUANO: Objection. 13 A. I don't recall having that conversation. 14 Q. I don't mean to put you in an uncomfortable 15 spot. Obviously I am. I will represent to you that 16 Michael Sweeney has testified at a deposition that 17 you had, quote/unquote, constantly stated that Bill 18 DiAdamo threw the Andrea Traficanti case and were 19 upset with him about it. 20 Did you ever have any such conversations 21 with Michael Sweeney? 22 A. I don't recall having that conversation or 23 any conversation, no. 24 Q. Had you ever worked with Thomas Schiavone</p>	<p style="text-align: right;">21</p> <p>1 unprepared for an upcoming workers' comp hearing in 2 the Andrea Traficanti case at any time in 2008? 3 A. I don't recall. 4 Q. Were you ever notified or aware that 5 Michael Sweeney or Thomas Schiavone had been 6 informed by Attorney DiAdamo that he believed that 7 he might have a conflict of interest with respect to 8 his defense of the Andrea Traficanti case and his 9 friendship with Frank McCann? 10 MR. DiADAMO: Objection. 11 A. I don't recall, no. I don't recall then. 12 I know that he's mentioned that he has a conflict 13 now because of this. I have a different attorney 14 taking care of that workers' comp. I want to make 15 sure that my answer is clear. 16 Q. I understand. Just to clarify, Attorney 17 DiAdamo is now working for the City of Lawrence in 18 dealing with most of its workers' compensation 19 matters except for the outstanding claim of Andrea 20 Traficanti? 21 A. Correct. 22 Q. Did you ever hear the broadcast that's the 23 subject of this lawsuit on August 23, 2008 by Tom 24 Duggan?</p>

<p style="text-align: right;">22</p> <p>1 A. No. I didn't even know there was one.</p> <p>2 Q. Do you know who Tom Duggan is?</p> <p>3 A. Yes.</p> <p>4 Q. How do you know who Tom Duggan is?</p> <p>5 A. He has a newspaper called Valley Patriot.</p> <p>6 Q. Were you aware of Tom Duggan and the Valley</p> <p>7 Patriot back in 2008?</p> <p>8 A. Did I know who he was back then?</p> <p>9 Q. Yes.</p> <p>10 A. Yes, I did.</p> <p>11 Q. Did you ever interact with Mr. Duggan in</p> <p>12 your capacity as personnel director and in his</p> <p>13 capacity as a reporter back in 2008?</p> <p>14 A. Yes.</p> <p>15 Q. Can you just briefly how you would interact</p> <p>16 with Mr. Duggan back in 2008?</p> <p>17 A. Sure. Just like many newspaper reporters</p> <p>18 or TV stations, radio stations, there's always a</p> <p>19 public records request of many offices in the City</p> <p>20 of Lawrence. If any public records request came</p> <p>21 from him for my office, a new hire, terminated,</p> <p>22 whatever, I would send those to the city attorneys'</p> <p>23 office to make sure it was okay to send out and then</p> <p>24 send whatever information the attorney had reviewed</p>	<p style="text-align: right;">24</p> <p>1 of Lawrence, including the mayor or any other</p> <p>2 employees, had accused Attorney DiAdamo of throwing</p> <p>3 the defense of the Andrea Traficanti workers'</p> <p>4 compensation case?</p> <p>5 A. I personally don't know.</p> <p>6 Q. Are you aware of any employee or</p> <p>7 representative of the City of Lawrence who had an</p> <p>8 opinion that Attorney DiAdamo performed poorly with</p> <p>9 respect to his defense of the city in the Andrea</p> <p>10 Traficanti case back in 2008?</p> <p>11 MR. DiADAMO: Objection.</p> <p>12 MS. RUANO: I'm going to object.</p> <p>13 You don't have to answer it if it</p> <p>14 involves anything protected by the attorney-client</p> <p>15 privilege.</p> <p>16 A. My benefits coordinator, Judy Perkins, was</p> <p>17 always complaining about every case. I'm not saying</p> <p>18 specifically about him, but everybody on workers'</p> <p>19 comp and how we can win these cases and what</p> <p>20 additional steps should have been taken to do this</p> <p>21 or that. She was not the expert workers' comp</p> <p>22 manager. That's all I can say.</p> <p>23 Q. So on occasion Ms. Perkins would criticize</p> <p>24 the fact that some of the workers' compensation</p>
<p style="text-align: right;">23</p> <p>1 to him.</p> <p>2 Q. Do you recall whether you ever had any</p> <p>3 discussions with Tom Duggan on the record or off the</p> <p>4 record concerning the claim or employment of Andrea</p> <p>5 Traficanti?</p> <p>6 A. I don't recall.</p> <p>7 Q. Were you aware back in 2008 that Mr. Duggan</p> <p>8 had a radio show called Paying Attention on WCAP?</p> <p>9 A. Yes.</p> <p>10 Q. So back in 2008 you were generally aware</p> <p>11 that he was also on the radio, WCAP, on occasion?</p> <p>12 A. Yes.</p> <p>13 Q. But just to be clear, you didn't hear the</p> <p>14 actual broadcast that's at issue in this case</p> <p>15 concerning Attorney DiAdamo.</p> <p>16 A. No.</p> <p>17 Q. Have you ever seen a transcript of the</p> <p>18 broadcast that Mr. Duggan, that contained the</p> <p>19 statements that Mr. Duggan made on the Paying</p> <p>20 Attention radio show back in August of 2008?</p> <p>21 A. No.</p> <p>22 Q. Do you know, based on your position as</p> <p>23 personnel director for the City of Lawrence back in</p> <p>24 2008, whether anybody in the government of the City</p>	<p style="text-align: right;">25</p> <p>1 cases that Attorney DiAdamo did should have been</p> <p>2 won?</p> <p>3 A. Not necessarily Mr. DiAdamo, just the</p> <p>4 person on the workers' comp. She was thinking it</p> <p>5 wasn't a real injury or illness and things like</p> <p>6 that.</p> <p>7 Q. Now, were you ever aware of whether or not</p> <p>8 there was any friendship between Attorney DiAdamo</p> <p>9 and Frank McCann? Are you or were you aware back in</p> <p>10 2008 of any friendship between Frank McCann and</p> <p>11 Attorney DiAdamo?</p> <p>12 A. I'm not quite sure what the definition</p> <p>13 there is of friendship. I know that Mr. DiAdamo</p> <p>14 knows most of the employees at City Hall, being that</p> <p>15 his office is so close. Just as now, I'm sure there</p> <p>16 was a lot of interactions between department heads</p> <p>17 about workers' comp, specifically DPW, which is one</p> <p>18 of our major departments that has a lot of injuries</p> <p>19 or illnesses. So there has to be some discussion</p> <p>20 about bringing someone back on a light duty,</p> <p>21 modifying their job descriptions. Those</p> <p>22 conversations are still taking place now with the</p> <p>23 current acting DPW director. I don't know about</p> <p>24 friendship or going out and having parties and</p>

<p style="text-align: right;">26</p> <p>1 barbecues and things like that. It is a working 2 relationship. 3 Q. Let me ask you this. You had observed, 4 during the course of your job and Attorney DiAdamo's 5 defense of the City of Lawrence of him having to 6 deal on a regular basis with Frank McCann with 7 respect to at least work issues? 8 A. Yes. 9 Q. At any time in 2008, was the issue ever 10 raised by Attorney DiAdamo or anybody else in the 11 City of Lawrence with respect to the fact that 12 Mr. DiAdamo's dealings with Frank McCann might cause 13 a conflict of issue in defending the claim of Andrea 14 Traficanti, who had also had a personal relationship 15 with Frank McCann? 16 MR. DIADAMO: Objection. 17 MS. RUANO: To the extent that it would 18 reveal any attorney-client privilege, I instruct you 19 not to answer. If it doesn't, you can go ahead and 20 answer. 21 A. Not from my office. I'm not sure of any 22 other offices. 23 Q. Do you know who Carmine DiAdamo is? 24 A. Yes.</p>	<p style="text-align: right;">28</p> <p>1 A. I don't. 2 Q. Is it fair to say you have no involvement 3 or personal knowledge about the Greater Lawrence 4 Sanitary District? 5 A. I heard something maybe a couple of years 6 ago about it because I think the chief of staff for 7 William Lantigua was a member of that at one time or 8 another. But that was it. 9 Q. But you wouldn't have any information as to 10 the terms of Attorney DiAdamo's representation of 11 the Greater Lawrence Sanitary District? 12 A. No. 13 Q. Do you have any information with respect to 14 any social relationship or other relationship 15 between Carmine DiAdamo and Frank McCann? 16 A. No, I don't, no. 17 Q. Have you ever, given the proximate location 18 of City Hall and the DiAdamo office, have you ever 19 observed Frank McCann and Carmine DiAdamo meeting or 20 discussing any matters? 21 A. I don't even recall seeing them together. 22 Q. Do you have any information as to whether 23 or not at any time anybody in the City of Lawrence 24 or its administration considered the filing of a BBO</p>
<p style="text-align: right;">27</p> <p>1 Q. Have you ever had to deal in the course of 2 your employment as personnel director with Carmine 3 DiAdamo? 4 A. No, not as personnel director. 5 Q. Are you aware of any involvement that 6 Carmine DiAdamo had in the defense of the City of 7 Lawrence while you were personnel director? 8 A. I can't recall. 9 Q. In terms of just focusing on 2008 for a 10 moment, in terms of Attorney DiAdamo's employment 11 with the City of Lawrence, can you describe, if you 12 know, generally what the terms of his compensation 13 were with the City of Lawrence at that time, 2008? 14 A. I know as a flat fee, yearly annual fee. I 15 can't remember right now because it changed. I want 16 to say 45,000. I'm not sure that's the correct 17 amount. 18 Q. And was there -- are you aware of whether 19 or not Attorney DiAdamo was employed in any other 20 capacity by the City of Lawrence in 2008? 21 A. No, I don't know. 22 Q. Do you have any information as to whether 23 or not Mr. DiAdamo was employed by the Greater 24 Lawrence Sanitary District?</p>	<p style="text-align: right;">29</p> <p>1 complaint against Attorney DiAdamo? 2 MR. DIADAMO: Objection. 3 A. I'm not sure what BBO is. I don't know. 4 Q. It is an allegation that's in our case. I 5 wouldn't necessarily expect you to know. Let me 6 make sure you understand my question. BBO stands 7 for Board of Bar Overseers. It is an organization 8 that essentially governs the ethics of lawyers and 9 licensing of lawyers. A complaint to the BBO would 10 be essentially complaining that a lawyer has done 11 something unethical or illegal. 12 A. I see. 13 Q. My question to you would be whether or not 14 you have any information with respect to anyone in 15 the City of Lawrence back in 2008 had discussed 16 potentially filing a so-called BBO complaint against 17 Attorney DiAdamo with respect to his representation 18 of the city in the Andrea Traficanti case. 19 A. No information and no knowledge that 20 somebody ever did. 21 (Discussion off the record.) 22 (A recess was taken.) 23 (Mr. Sweeney has arrived.) 24 Q. Mr. Bonet, returning back to the subject of</p>

<p style="text-align: right;">30</p> <p>1 the time period of 2008 in the claim of Andrea 2 Traficanti, I think we discussed whether you had any 3 conversations with respect to anybody in the City of 4 Lawrence concerning Mr. DiAdamo's performance in the 5 defense of Lawrence against the claim of Andrea 6 Traficanti. I wanted to now turn to the subject of 7 whether or not you had ever sent any correspondence 8 via a regular letter or an email or a text 9 concerning DiAdamo's performance and the 10 representation of the City of Lawrence defending the 11 claims of Andrea Traficanti. 12 A. To anyone? 13 Q. Yes. 14 A. No, I don't recall doing anything like 15 that. 16 Q. Did you ever utilize email in the course of 17 your employment at the City of Lawrence? 18 A. Yes. 19 Q. Would you regularly communicate concerning 20 claims or the status of a workers' compensation 21 claim? 22 A. Not regularly. It all depends what the 23 content. I didn't want to violate anyone's health 24 privacy. Maybe strategy or a letter that needs to</p>	<p style="text-align: right;">32</p> <p>1 A. Rob Harhen. 2 Q. Do you ever have occasion now in 2014 to 3 search for emails that you might have sent or 4 received back in the time period of 2004 to 2008 5 when you were previously employed? 6 A. Usually my system gives me a list, this 7 little communication saying my in-box is about to be 8 full, you only have so much space. I have to delete 9 emails. From that I have to delete emails. But IT 10 I'm pretty sure does keep those on their servers 11 historically. I think I can go back three or four 12 months. That's how much it holds before it gives me 13 that error message. 14 Q. My next question is do you recall whether 15 or not you ever sent any emails to and from 16 co-workers, if you will, including other personnel 17 at the City of Lawrence, the Mayor Michael Sullivan, 18 or anyone else concerning the work performance of 19 Attorney DiAdamo in handling workers' compensation 20 claims during the time period of 2008 shortly before 21 he stopped working for the City of Lawrence? 22 A. I can't recall that I did, no. 23 Q. Do you recall whether or not you personally 24 ever wrote an email directed to other employees of</p>
<p style="text-align: right;">31</p> <p>1 be typed up. I get a correspondence from 2 Mr. DiAdamo: So and so is cleared to come back on 3 in light duty. Do you have any light duty? And the 4 response: Yes, I will have it in so many days or 5 no, those kinds of things, but nothing that I can 6 remember specifically. 7 Q. Before we took the break, I was talking 8 about conversations. Now I'm talking about email 9 communications or letters. 10 A. Correct. 11 Q. Just in terms of email, letters, did you 12 communicate between you and Mr. DiAdamo by email 13 concerning workers' compensation claims back in 14 2008? 15 A. I can't remember but I'm sure there might 16 have been some emails. 17 Q. Do you know whether or not these emails 18 exist to this day? 19 A. I don't. But I think there was a law 20 passed not too long ago for government agencies to 21 keep electronic communications on the server, so 22 that would be a question for the IT director for the 23 City of Lawrence. 24 Q. Who is that currently?</p>	<p style="text-align: right;">33</p> <p>1 the City of Lawrence, including Mayor Michael 2 Sullivan or co-workers, such as Mr. Sweeney, 3 Mr. Schiavone, in which you commented adversely on 4 the DiAdamo's work performance in defending the City 5 of Lawrence? 6 A. No, I can't. 7 Q. In terms of the outcome of the Andrea 8 Traficanti case, what was your personal opinion as 9 to the performance of Attorney DiAdamo in what he 10 achieved in defending the Traficanti case in 2008? 11 MR. DIADAMO: Objection. 12 MS. RUANO: To the extent that it asks 13 him to comment on open litigation, I'm going to ask 14 him not to answer. 15 Q. Let me ask the question in a different way. 16 Were you satisfied with the outcome of the Andrea 17 Traficanti case at the time Attorney DiAdamo stopped 18 representing the City of Lawrence in 2008? 19 MR. DIADAMO: Objection. 20 MS. RUANO: Again, to the extent that it 21 comments on open litigation, I'm going to direct him 22 not to answer. 23 Q. Do you recall whether or not you drafted 24 any emails or received any emails concerning</p>

<p style="text-align: right;">34</p> <p>1 Attorney DiAdamo's termination from representing the 2 City of Lawrence in 2008?</p> <p>3 A. If I received any emails from my superiors 4 or my colleagues? I can't remember if I did or not.</p> <p>5 Q. What was your reaction to Attorney 6 DiAdamo's -- strike that. What was your reaction to 7 learning that Attorney DiAdamo was no longer 8 representing the City of Lawrence in workers' 9 compensation cases in 2008?</p> <p>10 A. Well, in the beginning of the deposition 11 you asked me the reasons why I left the City of 12 Lawrence. That was one of the reasons. A letter 13 reached an attorney somewhere in Boston that he was 14 to take over the workers' compensation legal aspects 15 in the City of Lawrence. I wasn't privy to any 16 conversations that I could remember or any authority 17 given by my office, because we do pay out of our 18 budget and our line item. I sign those agreements. 19 I sign invoices. So when I did hear about it, I was 20 upset that I wasn't part of that conversation or 21 that meeting to decide whether to go elsewhere.</p> <p>22 Not only that, but some other vendors 23 that were being hired by other department heads or 24 other offices to do certain things without my</p>	<p style="text-align: right;">36</p> <p>1 comfortable signing any of those.</p> <p>2 Q. Was your dispute or the issues that you 3 had, they were basically with Mayor Sullivan; is 4 that correct?</p> <p>5 A. Overall he's my boss. He's the one that 6 approves those things, yes.</p> <p>7 Q. Was there anyone else that you perceived, 8 in addition to Mayor Sullivan, that was keeping you 9 out of the loop on these matters and causing you 10 angst over how you were being treated at the job?</p> <p>11 A. I don't know about perceived. I don't know 12 who else had a conversation or had their fingers in 13 the story or in the decision-making.</p> <p>14 Q. Turning back to the subject of emails. Do 15 you recall ever sending an email in 2008 expressing 16 concern about Andrea Traficanti and the fact that 17 she was attending city council meetings while she 18 was out on workers' compensation disability?</p> <p>19 MS. RUANO: To the extent your answer 20 will talk about an open litigation matter, I'm going 21 to instruct you not to answer that.</p> <p>22 A. I'm not going to answer that question.</p> <p>23 Q. Just going back a few questions. I 24 understand that you were upset about how you were</p>
<p style="text-align: right;">35</p> <p>1 involvement and then all of a sudden there was an 2 agreement on my desk to sign. Two of those happened 3 pretty quickly in 2008. That was one of the reasons 4 I left.</p> <p>5 When you ask me for my opinion of what 6 my reactions were, I was pretty upset that somebody 7 was trying to run my office and I'm overall 8 responsible for the performance of that office.</p> <p>9 Q. Okay. Just so I understand what you're 10 relating to me; you were upset by the fact that you 11 were not involved in the decision to select the 12 counsel representing the City of Lawrence in 13 workers' compensation matters?</p> <p>14 A. Yes.</p> <p>15 Q. Is it safe to say in sum and substance that 16 you felt that you were left out of that decision- 17 making process?</p> <p>18 A. Not only that one. The classification 19 compensation consultant that was brought in by the 20 mayor's office and finance office to do certain 21 classifications for certain people to increase their 22 salaries to get paid out of my budget line item 23 without me approving the agreement. Then the 24 agreement was on my desk to sign. I didn't feel</p>	<p style="text-align: right;">37</p> <p>1 out of the loop on the determination by the City of 2 Lawrence to not continue employing Attorney DiAdamo. 3 But what was your personal assessment of the 4 performance of Attorney DiAdamo with respect to his 5 work product on behalf of the City of Lawrence in 6 2008 and defending workers' comp claims? Were you 7 satisfied with his performance and that of his law 8 office?</p> <p>9 A. Well, I can't speak about the legalities or 10 the work that he does legally. That would be the 11 city attorneys' office. They are responsible for 12 all the attorneys that work under them in or outside 13 consultant or employee.</p> <p>14 As far as workers' comp, I can tell you 15 generally that any workers' comp that I lose I'm 16 overall not happy about. Because I know that I can 17 bring back those individuals in a light duty in some 18 form or fashion. But there's always some union that 19 tells you that's not their job. Their job is over 20 here. You can only modify this job description.</p> <p>21 Overall there's a lot of walls to jump 22 over and doors to open up to try to get this done. 23 It is not one particular area that I'm unhappy 24 about. It is just the fact that judges or attorneys</p>

<p style="text-align: right;">38</p> <p>1 or somebody else will make that decision for us. It 2 is not a decision that I'm looking for. 3 Q. I understand that you might be unhappy to 4 lose any case. I'm trying to determine whether back 5 in 2008 in your capacity as personnel director at 6 the City of Lawrence, at the time the City of 7 Lawrence determined that it was no longer going to 8 employ Attorney DiAdamo, were you in your capacity 9 as personnel director satisfied at that time with 10 Attorney DiAdamo's work performance in generally 11 servicing the City of Lawrence as a legal 12 representative? 13 A. I never thought about it in 2008, whether I 14 was satisfied or not with his performance. But as a 15 personnel director, if I'm not satisfied with one of 16 my vendors or the services that they are supposed to 17 be providing, then it is up to me to find someone to 18 do it better. I didn't do that. I don't know if 19 somebody else was, but I certainly was not 20 unsatisfied. 21 Q. Let me ask you. Were you upset with the 22 fact or surprised to find out that Attorney DiAdamo 23 was no longer going to be the attorney representing 24 the City of Lawrence in 2008?</p>	<p style="text-align: right;">40</p> <p>1 ways to answer it. It depends on the case, I would 2 say. I would say someone who continues to be out on 3 a case getting paid 60 percent of their salary when 4 we can be filling that position in with someone 5 else, using some other line item to pay for that so 6 that I could fill the position. I look at it more 7 as a loss of manpower hour than a loss of case. 8 When I say loss, we are losing valuable work that 9 someone else could be providing us while that person 10 is out there. 11 Q. Would you agree that you would consider it 12 a loss if the Department of Industrial Accidents 13 awards a claim and requires the city to pay 14 disability? 15 MS. RUANO: Objection. 16 MR. DiADAMO: Objection. 17 A. I don't think if it was a loss that I could 18 see, an injury that was there, like a physical 19 injury you can see. When it is mental injuries or 20 injuries inside the body, you can't see it, it is 21 hard for me to put an answer to that. 22 Q. With respect to Andrea Traficanti, did you 23 consider it a loss for the City of Lawrence when she 24 was awarded for her claims of stress and mental</p>
<p style="text-align: right;">39</p> <p>1 A. I was surprised, yes. 2 Q. In terms of Attorney DiAdamo's legal 3 service, were you satisfied with his ability to 4 return phone calls promptly and be responsive to 5 your office in representing the City of Lawrence? 6 A. He always has been, yes. 7 Q. Were you satisfied with his preparation for 8 workers' compensation cases, including the Andrea 9 Traficanti case? 10 A. I don't think I can speak to his 11 preparation. I'm not there when he's preparing. I 12 feel uncomfortable answering that. I'm not a legal 13 expert. I don't know how to prepare for a case. 14 Q. You mentioned previously in your testimony 15 that you are unhappy to lose workers' compensation 16 cases. Just so we are talking the same language 17 here, what do you consider a loss in a workers' 18 compensation case? 19 A. What do I consider a loss? 20 Q. Yes. 21 MR. DiADAMO: Objection. 22 MR. DICKISON: I'm not asking for a 23 legal conclusion. 24 A. That's a good question. There are a lot of</p>	<p style="text-align: right;">41</p> <p>1 injury, disability benefits and 60 percent of her 2 compensation? 3 MR. DiADAMO: Objection. 4 MS. RUANO: Objection. To the extent it 5 involves you discussing an open litigation matter, 6 I'm instructing you not to answer. 7 (Mr. Knowles has arrived.) 8 Q. Were you ever a source to Mr. Duggan with 9 respect to any of the publications of the Valley 10 Patriot or the statements he made on WCAP concerning 11 the Andrea Traficanti case? 12 A. I don't recall. 13 Q. Did you ever deal with Attorney DiAdamo on 14 the Jennifer Pedallaro workers' compensation case? 15 A. Just to get my mind refreshed, was she a 16 clerk working at the city clerk's office? 17 Q. If you know. 18 MS. RUANO: If you know. 19 Q. If you don't know. 20 MR. SWEENEY: Yes. 21 A. I wasn't there when that case happened, if 22 that's the case. I came shortly after. 23 Q. Do you have any independent memory of 24 whether or not Attorney DiAdamo was defending the</p>

<p style="text-align: right;">42</p> <p>1 City of Lawrence against a claim by Jennifer 2 Pedallaro? 3 A. No, I don't; only what I read from the 4 paper before I got there. I can't remember that 5 either. I know there was a case going on. 6 MS. RUANO: Okay. 7 Q. I'm going to show you what has been marked 8 previously in the deposition of Mr. DiAdamo, Exhibit 9 6. This is the affidavit of Tom Schiavone. 10 (Marked, Exhibit 1, Affidavit of Tom 11 Schiavone.) 12 Q. Mr. Bonet, I had you review the affidavit 13 of Thomas Schiavone which was filed in this case. 14 Have you had a chance to review it? 15 A. Yes. 16 Q. Having reviewed it, does that affidavit 17 refresh your recollection at all about any of the 18 events that occurred back in 2008 with respect to 19 Attorney DiAdamo's representation and handling of 20 the defense of the City of Lawrence against the 21 claim of Ms. Traficanti? 22 MR. DIADAMO: Objection. 23 A. No, it doesn't. 24 Q. Were you present at the mayor's office on</p>	<p style="text-align: right;">44</p> <p>1 A. No, it doesn't. 2 (The witness and counsel leave the room 3 to confer.) 4 Q. Mr. Bonet, when we broke I changed Exhibit 5 2 so that it is the signed affidavit of Michael 6 Sweeney. During the break you reviewed it. I 7 wanted to re-ask my question. 8 Does that affidavit refresh your 9 recollection as to your personal knowledge as to the 10 reasons for Mr. DiAdamo's termination from being a 11 lawyer representing the City of Lawrence in 2008? 12 A. Does it -- was I part of the meeting? 13 Q. Does it refresh your recollection in any 14 way as to the reasons Mr. DiAdamo was terminated 15 from his position as legal representative in the 16 City of Lawrence or does it refresh your 17 recollection as to the events and performance of 18 Mr. DiAdamo in defending the City of Lawrence? 19 A. No, it doesn't. 20 For the record, I see some of these 21 affidavits were signed November 2008. I don't know 22 when the meeting actually occurred between these 23 individuals. I don't recall the day of 24 Ms. Traficanti's Industrial Accident Board hearing.</p>
<p style="text-align: right;">43</p> <p>1 the day before a workers' compensation hearing for 2 Andrea Traficanti in which Thomas Schiavone and 3 Michael Sweeney met with Mr. DiAdamo? 4 A. I'm not sure if I was in the mayor's 5 office. I can't remember. I wasn't in this 6 meeting. I don't recall being in that meeting. 7 Q. Just to be clear, did you ever learn from 8 either Mr. Schiavone or Mr. Sweeney or Mr. DiAdamo 9 any of the discussions that occurred during that 10 meeting that are reflected in this affidavit? 11 A. I don't recall them telling me anything 12 that happened in this meeting, no. 13 (Marked, Exhibit 2, Affidavit of Michael 14 Sweeney.) 15 Q. I'll have you do the same exercise with 16 this affidavit. Let me represent to you there is a 17 signed version of that that I will get marked. 18 Does the affidavit marked as Exhibit 2 19 refresh your recollection at all as to any of the 20 conversations that -- does that affidavit refresh 21 your recollection to the extent of any knowledge you 22 might have had back in 2008 about the representation 23 of Attorney DiAdamo in defending the City of 24 Lawrence against a claim of Ms. Traficanti?</p>	<p style="text-align: right;">45</p> <p>1 After September 2008 I was no longer with the City 2 of Lawrence. I wanted to make sure you understood 3 the time frame. 4 Q. I do. 5 A. I don't recall being there or hearing about 6 it. 7 Q. Just so you're clear about the questions, 8 these affidavits were drafted and filed after this 9 lawsuit started. They concern events that occurred 10 in the months prior to, during 2008. 11 MR. DIADAMO: Objection. 12 Q. Just so you understand, hopefully I'm not 13 confusing you further; the events recounted in these 14 two affidavits marked as Exhibits 1 and 2 concern 15 events that occurred during the years 2007 and 2008 16 during the time that Attorney DiAdamo was 17 representing the City of Lawrence and defending 18 against the claim of Ms. Traficanti. 19 A. Okay. 20 Q. Let me ask you. Earlier today I asked you 21 specifically, about conversations that you had with 22 Attorney DiAdamo concerning his performance in the 23 Traficanti case. And there was an objection as to 24 attorney-client privilege and you didn't answer the</p>

<p style="text-align: right;">46</p> <p>1 question. What I want to know is whether or not you 2 do have a memory of conversations between you and 3 Attorney DiAdamo regarding his performance in the 4 Traficanti case, as you sit here today. That would 5 be just a yes or no, whether or not you actually 6 recall conversations that occurred that you are not 7 telling us because they are privileged. 8 A. No, I really don't recall, it has been so 9 long. 10 Q. Jumping to the topic of when you returned 11 as personnel director of the City of Lawrence in 12 January 2010, you became involved once again with 13 defending workers' compensation claims against the 14 City of Lawrence, correct? 15 A. Correct. 16 Q. At some point in July of 2010 Attorney 17 DiAdamo was rehired by the City of Lawrence as its 18 outside counsel defending workers' compensation 19 claims, correct? 20 A. I'm not sure. 2010, but I'm not sure if it 21 was July or not. 22 Q. Were you involved in any way with the 23 rehiring of Attorney DiAdamo at that time in 2010? 24 A. I may have been. I don't recall. I know</p>	<p style="text-align: right;">48</p> <p>1 EXAMINATION 2 BY MR. KNOWLES: 3 Q. Mr. Bonet, other than your attorney, who 4 did you speak to to prepare for this deposition? 5 A. No one. 6 Q. No other present or former officials of the 7 City of Lawrence? 8 A. No. 9 Q. Are you aware that there are emails between 10 you and Mr. Duggan as well as others complaining 11 about the DiAdamos' handling of the Andrea 12 Traficanti case? 13 A. You said am I aware? 14 Q. Are you aware of that? 15 A. No, I'm not. 16 Q. Were you outraged by the Andrea Traficanti 17 case in any way, and if so, why? 18 MS. RUANO: I'm going to object to the 19 extent that this answer may involve an open 20 litigation matter. 21 MR. DUGGAN: His discussions inside City 22 Hall and outside City Hall are not privileged. 23 MR. DiADAMO: I would like to put a 24 comment and objection on that I don't think it is</p>
<p style="text-align: right;">47</p> <p>1 for a fact that the chief of staff was. I'm not 2 sure if I signed the agreement to do the legal thing 3 or not. I know there were discussions around it. 4 Q. Who was the chief of staff at that time? 5 A. At that time Leonard Degnan. 6 Q. Were there any concerns expressed regarding 7 the past performance of Attorney DiAdamo with 8 respect to his handling the workers' compensation 9 cases in general or the Andrea Traficanti case 10 specifically when you were rehiring him in 2010? 11 A. No. I don't remember that coming into the 12 conversation. 13 MR. DICKISON: I don't have any further 14 questions at this time. I'm going to suspend 15 because there were some assertions of privilege. 16 For those reasons and other reasons I will suspend. 17 MR. DiADAMO: I have no questions at 18 this time. 19 MR. DUGGAN: Can we have two minutes to 20 confer, since he was a little late? 21 MR. DICKISON: Sure. 22 (A recess was taken.) 23 24</p>	<p style="text-align: right;">49</p> <p>1 appropriate for Mr. Duggan to be making statements 2 or comments or asking questions. 3 (Discussion off the record.) 4 Q. Weren't you outraged that the DiAdamo law 5 firm was even handling the Andrea Traficanti case? 6 Isn't that correct? 7 MS. RUANO: Objection. 8 A. I don't remember what my feelings were back 9 then. I can't recall what they were. I wouldn't be 10 outraged. 11 Q. You weren't? 12 A. I said I wouldn't be outraged. 13 Q. You weren't outraged about the way the case 14 was being handled, aside from the fact that they 15 were handling the case at all? 16 A. "Outrage" is like a big word here. I 17 wouldn't be outraged. I would be disappointed 18 maybe, a better word. I don't know what my feelings 19 were back then. 20 Q. Why were you disappointed? 21 A. I said I might have been. I don't know 22 what my feelings were back then. 23 Q. Who made the decision not to renew the 24 DiAdamos' contract?</p>

<p style="text-align: right;">50</p> <p>1 A. I'm not sure.</p> <p>2 Q. Wasn't it the mayor?</p> <p>3 A. I don't recall the letter, who signed the</p> <p>4 letter. Any change in vendor agreement would have</p> <p>5 to be the mayor. I assume it was the mayor. I</p> <p>6 don't know.</p> <p>7 Q. Do you recall him telling you why?</p> <p>8 A. I don't recall him telling me anything.</p> <p>9 Q. Did Mayor Sullivan ever say he believed the</p> <p>10 DiAdamos had a conflict of interest or that they,</p> <p>11 quote, "threw the Andrea Traficanti case," words to</p> <p>12 that effect?</p> <p>13 A. I don't recall him telling me that.</p> <p>14 Q. Before the Andrea Traficanti case, did Bill</p> <p>15 DiAdamo ever say to you or in front of you that he</p> <p>16 was unprepared to move forward in that case?</p> <p>17 MR. DiADAMO: Objection.</p> <p>18 MS. RUANO: Objection. I'm going to</p> <p>19 instruct him not to answer because of the</p> <p>20 attorney-client privilege.</p> <p>21 Q. Did you ever hear him say that to anyone</p> <p>22 else?</p> <p>23 MS. RUANO: Objection. I'm going to</p> <p>24 instruct him not to answer because of the</p>	<p style="text-align: right;">52</p> <p>1 MS. RUANO: Objection. To the extent it</p> <p>2 would reveal any attorney-client communications, I'm</p> <p>3 going to direct him not to answer.</p> <p>4 Q. You don't recall him saying this in front</p> <p>5 of any third parties, words to this effect, where it</p> <p>6 would not be privileged information?</p> <p>7 MR. DiADAMO: Objection.</p> <p>8 MS. RUANO: If you know.</p> <p>9 A. For the record, anything he tells me would</p> <p>10 be privileged even if it is in front of a third</p> <p>11 party, but I don't recall.</p> <p>12 Q. Didn't you tell Mr. Duggan and dozens of</p> <p>13 other people back in 2008 that you were outraged by</p> <p>14 the DiAdamos' handling of the case, again the fact,</p> <p>15 a mere representation?</p> <p>16 A. I don't recall saying that.</p> <p>17 Q. No words to that effect, conflicts of</p> <p>18 interest?</p> <p>19 A. I don't recall saying any of that.</p> <p>20 Q. Did you ever speak to Richard D'Agostino</p> <p>21 about the Traficanti case?</p> <p>22 MR. DiADAMO: Objection.</p> <p>23 MR. DUGGAN: Didn't we reserve</p> <p>24 objections?</p>
<p style="text-align: right;">51</p> <p>1 attorney-client privilege.</p> <p>2 MR. DUGGAN: Not with a third party.</p> <p>3 Q. Did Bill DiAdamo admit to you that he had a</p> <p>4 conflict representing the city against Andrea</p> <p>5 Traficanti?</p> <p>6 MR. DiADAMO: Objection.</p> <p>7 MS. RUANO: Objection. I instruct him</p> <p>8 not to answer.</p> <p>9 Q. Did you ever hear him say that to anyone</p> <p>10 else?</p> <p>11 MS. RUANO: To the extent that would</p> <p>12 involve any communications protected by the</p> <p>13 attorney-client privilege, I'm going to instruct him</p> <p>14 not to answer.</p> <p>15 Q. Didn't Bill DiAdamo tell you that he wanted</p> <p>16 to settle the case because he was unprepared?</p> <p>17 MR. DiADAMO: Objection.</p> <p>18 MS. RUANO: I'm going direct you not to</p> <p>19 answer because it is protected by the attorney-</p> <p>20 client privilege.</p> <p>21 Q. Did you ever hear Bill DiAdamo ever tell</p> <p>22 anyone else that he was unprepared and had a</p> <p>23 conflict, and if so who?</p> <p>24 MR. DiADAMO: Objection.</p>	<p style="text-align: right;">53</p> <p>1 MR. DiADAMO: My objection is the</p> <p>2 attorney-client privilege. Mr. D'Agostino is not</p> <p>3 really here to protect himself at the moment.</p> <p>4 MR. DUGGAN: You testified he did not</p> <p>5 work on the case. There is no privilege.</p> <p>6 MR. DiADAMO: Once again, I am going to</p> <p>7 put on the record that Mr. Duggan, I do not think</p> <p>8 that it is appropriate for him to make statements on</p> <p>9 the record. I've made an objection. I've</p> <p>10 identified it.</p> <p>11 MR. DUGGAN: If people would stop lying,</p> <p>12 I wouldn't have to.</p> <p>13 MR. DiADAMO: We are getting dangerously</p> <p>14 close to suspending the deposition. That is</p> <p>15 completely inappropriate for somebody to be saying</p> <p>16 at a deposition. It is inappropriate for Mr. Duggan</p> <p>17 to make any comments whatsoever. It would be my</p> <p>18 position that the next time Mr. Duggan makes a</p> <p>19 comment that the deposition should be suspended so</p> <p>20 we can go before a judge to set the ground rules for</p> <p>21 what should be happening from here forward.</p> <p>22 MR. DUGGAN: That would be fine so long</p> <p>23 as when we go before the judge we can clear up the</p> <p>24 phantom attorney-client privilege issues where</p>

<p style="text-align: right;">54</p> <p>1 people are saying something is attorney-client 2 privilege when the state law clearly states that if 3 it is in front of a third party, it is not attorney- 4 client privilege, it is not protected. You're 5 telling us about work product. Everybody can sit in 6 this room at every deposition and pretend they don't 7 know anything and say it is attorney-client 8 privilege. But the fact is half the things being 9 claimed are attorney-client privilege are not 10 attorney-client privilege. 11 MR. DICKISON: This isn't helpful. You 12 may be right. If you keep talking, you're going to 13 delay things and create more issues to go before the 14 judge on. I would suggest that you stop talking. 15 Allan, you resume your questioning, and then we go 16 through to see if we can finish the deposition. 17 MR. DUGGAN: Am I not allowed to talk to 18 my attorney through this? 19 MR. DICKISON: You can talk to your 20 attorney. You really shouldn't be talking on the 21 record. I agree with Bill on that. 22 MR. DUGGAN: That's fine. The first 23 three objections he made I was talking through my 24 attorney.</p>	<p style="text-align: right;">56</p> <p>1 anything of that nature? 2 MR. DiADAMO: Objection. 3 Q. Coffee shop, parking lot? 4 MR. DiADAMO: Objection. 5 MS. RUANO: If it would involve anything 6 with the attorney-client privilege, I direct him not 7 to answer. If it does not, he may answer as to his 8 personal knowledge. 9 Q. Any personal knowledge. 10 A. Can you repeat the question? 11 Q. Did you ever hear of anyone suggest that a 12 BBO complaint should be filed against the DiAdamos 13 regarding the Traficanti case? 14 MR. DiADAMO: Objection. 15 Q. Anyone at all? 16 A. I don't recall hearing that, no. 17 Q. Have you ever seen Frank McCann with 18 Carmine DiAdamo outside of City Hall, any other 19 neutral settings where, when, the number of times? 20 A. I was asked that earlier in the deposition. 21 I can't recall ever seeing Carmine and Frank 22 together. 23 Q. Again, regarding the emails between Tom 24 Duggan and yourself regarding the DiAdamos' handling</p>
<p style="text-align: right;">55</p> <p>1 MR. DICKISON: Let's try to keep a clean 2 record and be respectful of the witness and finish 3 the questioning so we can move on. 4 Q. Did you ever overhear Mr. D'Agostino 5 talking about the DiAdamos' handling of the 6 Traficanti case to anyone else? 7 MS. RUANO: To the extent it would 8 involve either communications covered by the 9 attorney-client privilege or any matters of an open 10 litigation, I'm going to direct him not to answer. 11 Q. Did you ever hear someone suggest that a 12 BBO complaint should be filed against the DiAdamos 13 regarding the Traficanti case? 14 MR. DiADAMO: Objection. 15 Q. Charlie Boddy, the mayor, Mr. Sweeney, 16 anyone? 17 MR. DiADAMO: Objection. 18 MS. RUANO: Objection. To the extent it 19 would involve any attorney-client privileged 20 communications, I'm going to direct him not to 21 answer. 22 Q. I would broaden the question a bit to say 23 any conversations even outside of City Hall with 24 anyone regarding that matter, can you recall</p>	<p style="text-align: right;">57</p> <p>1 of the Andrea Traficanti case, do you recall the 2 number with any specificity, the nature of those 3 emails? 4 A. I don't recall any emails. 5 Q. Were there any conversations about the 6 DiAdamos outside of city council meetings at City 7 Hall where others were present that you recall 8 regarding the Andrea Traficanti case? 9 A. I don't understand the question. Any 10 conversation outside of city council meetings? 11 Q. Outside of city council meetings. 12 MR. DiADAMO: Objection. 13 Q. Regarding the Traficanti case. 14 A. I think if there were and they were by 15 attorneys, they were attorney-client privilege. If 16 there were, I wouldn't want to add to anything that 17 is an open case of Ms. Traficanti. That's what I 18 think. You asked me if there were any conversations 19 outside of city council. That's kind of broad. I 20 can't recall. 21 Q. You don't recall of any specific city 22 officials or anybody in attendance at those meetings 23 that you may have had conversations with outside 24 during a break concerning handling, the DiAdamos'</p>

<p style="text-align: right;">58</p> <p>1 handling of the Traficanti case?</p> <p>2 A. Anything that was done through the city</p> <p>3 council, I'm pretty sure it may have been done at</p> <p>4 executive session because those things are done in</p> <p>5 executive session. I don't recall an executive</p> <p>6 session ever happening on that. I wouldn't be the</p> <p>7 person answering. It would be the attorney</p> <p>8 answering the questions from the city council</p> <p>9 members.</p> <p>10 Q. Do you personally believe there was a</p> <p>11 conflict of interest in the DiAdamos representing</p> <p>12 the City of Lawrence against Andrea Traficanti in</p> <p>13 the workers' compensation case?</p> <p>14 MR. DiADAMO: Objection.</p> <p>15 MS. RUANO: Objection.</p> <p>16 You may answer.</p> <p>17 A. I don't think that I would be the person to</p> <p>18 indicate if there was a conflict. I'm sure there</p> <p>19 are agencies and organizations that determine</p> <p>20 whether there's a conflict of interest, the ethics</p> <p>21 or BBO.</p> <p>22 Q. Your personal opinion.</p> <p>23 A. I didn't know personally of any conflicts.</p> <p>24 Q. Did you believe that there were any</p>	<p style="text-align: right;">60</p> <p>1 Q. Do you recall Charlie Boddy saying he</p> <p>2 wanted to pursue a BBO complaint against the</p> <p>3 DiAdamos for their handling of the Traficanti case?</p> <p>4 MS. RUANO: I'm going to direct you not</p> <p>5 to answer; protected by the attorney-client</p> <p>6 privilege.</p> <p>7 Q. If there was such a conversation, even</p> <p>8 though you can't speak about it, was there anyone</p> <p>9 else in the room when it took place?</p> <p>10 MS. RUANO: I'm going to object to the</p> <p>11 question. I'm going to instruct him not to answer</p> <p>12 because it might contain communications protected by</p> <p>13 the attorney-client privilege.</p> <p>14 Q. Did you have any discussions with any</p> <p>15 member at all of the Sullivan administration about</p> <p>16 the DiAdamos' conduct during the Traficanti case?</p> <p>17 MR. DiADAMO: Objection.</p> <p>18 MS. RUANO: If it would involve any</p> <p>19 communications protected by attorney-client</p> <p>20 privilege, I'm going to instruct you not to answer.</p> <p>21 If there's other communications, you may answer.</p> <p>22 A. I don't recall.</p> <p>23 Q. Have you ever seen Carmine or Bill DiAdamo</p> <p>24 in Frank McCann's office?</p>
<p style="text-align: right;">59</p> <p>1 conflicts of interest regarding any of the other</p> <p>2 work that the DiAdamos were doing for the city, the</p> <p>3 GLSD, the planning board?</p> <p>4 A. I have no idea about those things. Like I</p> <p>5 said, organizations such as state ethics, BBO, some</p> <p>6 other attorney would have to answer on conflict, not</p> <p>7 me. I wouldn't know.</p> <p>8 Q. You don't recall expressing your opinion</p> <p>9 about their role or conflict?</p> <p>10 A. Conflict, I don't recall.</p> <p>11 Q. Do you recall telling anyone else besides</p> <p>12 city officials that you believed there was some sort</p> <p>13 of a conflict?</p> <p>14 MR. DiADAMO: Objection.</p> <p>15 A. I thought I answered that question twice</p> <p>16 already. I don't recall.</p> <p>17 Q. Anybody else, anyone at all? Do you recall</p> <p>18 any conversations with Charlie Boddy about the</p> <p>19 DiAdamos' handling of the case?</p> <p>20 MR. DiADAMO: Objection.</p> <p>21 MS. RUANO: To the extent that it</p> <p>22 involves any communications involving the</p> <p>23 attorney-client privilege, I'm going to direct you</p> <p>24 not to answer.</p>	<p style="text-align: right;">61</p> <p>1 A. I know I've never seen Carmine in Frank</p> <p>2 McCann's office. I can't recall if I have seen</p> <p>3 Mr. DiAdamo in Frank McCann's office. He does come</p> <p>4 to City Hall on a frequent basis. I don't know. I</p> <p>5 don't recall if I ever did or not, saw him in his</p> <p>6 office.</p> <p>7 Q. Have you ever seen Frank in the DiAdamo</p> <p>8 office?</p> <p>9 A. No.</p> <p>10 Q. I may have asked this. Have you ever</p> <p>11 witnessed conversations outside of the office? I</p> <p>12 know the proximity is fairly close, but we are</p> <p>13 talking the area outside of the DiAdamos' office</p> <p>14 down the alley from City Hall, do you recall</p> <p>15 conversations?</p> <p>16 A. Between who?</p> <p>17 Q. Between Frank and the DiAdamos.</p> <p>18 A. No. I wouldn't recall any conversations.</p> <p>19 Q. Did you ever hear Andrea Traficanti or</p> <p>20 Frank McCann say they were going to win the workers'</p> <p>21 compensation case specifically because Mr. DiAdamo</p> <p>22 was representing the city, or words to that effect,</p> <p>23 from either or both of them?</p> <p>24 A. I don't recall. I don't recall ever</p>

<p style="text-align: right;">62</p> <p>1 hearing something like that, no.</p> <p>2 Q. I assume you are familiar with the phrase</p> <p>3 "take it to the bank"?</p> <p>4 A. Yes.</p> <p>5 Q. You don't recall Andrea Traficanti saying</p> <p>6 in front of you as well as possibly others that she</p> <p>7 was 100 percent sure she would win because look who</p> <p>8 we are up against, we will win, you can take it to</p> <p>9 the bank?</p> <p>10 A. I don't recall her saying that to me, no.</p> <p>11 Q. Regardless; your experience with Andrea</p> <p>12 Traficanti and/or Frank McCann back at the time, do</p> <p>13 you recall her attitude towards the case as being</p> <p>14 extremely confident that she would win? How would</p> <p>15 you describe her attitude whenever you would see her</p> <p>16 and that conversation would come up?</p> <p>17 MR. HAN: I didn't hear an answer. You</p> <p>18 have to say your answer.</p> <p>19 THE WITNESS: I haven't answered the</p> <p>20 question.</p> <p>21 MR. HAN: You asked another question.</p> <p>22 Q. The first part was her attitude towards the</p> <p>23 case in general, do you remember her being extremely</p> <p>24 confident that she would prevail in that matter?</p>	<p style="text-align: right;">64</p> <p>1 crossing a border between coming in to work and</p> <p>2 actually working.</p> <p>3 Q. Would it be fair to say that it wasn't just</p> <p>4 that single incident that upset you but that was the</p> <p>5 culmination or the straw that broke the camel's back</p> <p>6 when it came to actions or attitude by that employee</p> <p>7 of the city?</p> <p>8 MS. RUANO: Objection.</p> <p>9 MR. DiADAMO: Objection.</p> <p>10 A. I can't recall any other events. It</p> <p>11 happened so long ago, that might have gotten me to</p> <p>12 the same point that I thought the individual</p> <p>13 shouldn't be at the workplace or doing things that</p> <p>14 could probably affect a workers' comp claim on that.</p> <p>15 Q. Do you recall any other particular</p> <p>16 upsetting incidents regarding that employee?</p> <p>17 A. I think I recall something that had to do</p> <p>18 with elections. I can't remember exactly what it</p> <p>19 was. I think I read something. I know I saw an</p> <p>20 event where she was at and also I read in the paper</p> <p>21 that she was running somebody's campaign. I can't</p> <p>22 remember who it was and what it was and what the</p> <p>23 event was for or what day it was.</p> <p>24 Q. So it's fair to say you were upset with</p>
<p style="text-align: right;">63</p> <p>1 A. I don't remember her demeanor or anything</p> <p>2 like that.</p> <p>3 Q. While the case was going on, do you</p> <p>4 remember offering the DiAdamos any information or</p> <p>5 evidence that would help the city's case against</p> <p>6 her?</p> <p>7 MR. DiADAMO: Objection.</p> <p>8 MS. RUANO: I instruct you not to answer</p> <p>9 to the extent it would involve communications</p> <p>10 violating the attorney-client privilege.</p> <p>11 Q. Do you recall any conversations regarding</p> <p>12 that with Mr. Duggan?</p> <p>13 A. No, I can't recall.</p> <p>14 Q. Do you remember a specific incident where</p> <p>15 Andrea Traficanti catered a city council meeting and</p> <p>16 it caused you to become extremely upset or you were</p> <p>17 extremely upset about that fact?</p> <p>18 A. Yes, I think I recall that.</p> <p>19 Q. Why did that cause you to become</p> <p>20 particularly upset?</p> <p>21 A. When you're on workers' comp receiving 60</p> <p>22 percent, you are supposed to be out of the work</p> <p>23 area. I believe she came in specifically for that</p> <p>24 event for the city council. I thought it was</p>	<p style="text-align: right;">65</p> <p>1 Andrea at some point?</p> <p>2 MS. RUANO: Objection.</p> <p>3 A. I don't remember -- I don't want to say I</p> <p>4 was upset. I'm just concerned that here is someone</p> <p>5 who is supposed to be out getting better and they</p> <p>6 were working at City Hall or with the city council</p> <p>7 doing an event or with a city councillor who is</p> <p>8 running for some office doing an event outside of</p> <p>9 City Hall.</p> <p>10 Q. Do you recall offering any information</p> <p>11 about Andrea Traficanti socializing with city</p> <p>12 officials at political fundraisers while she was</p> <p>13 claiming she was suffering psychological hardship</p> <p>14 while being around people at City Hall?</p> <p>15 MS. RUANO: To the extent it involves</p> <p>16 attorney-client privileged communications, I'll</p> <p>17 direct you not to answer; or anything involving the</p> <p>18 open litigation, I direct you not to answer.</p> <p>19 Q. Did the DiAdamos ever approach you for any</p> <p>20 help regarding the Andrea Traficanti case?</p> <p>21 MR. DiADAMO: Objection.</p> <p>22 A. Can you clarify the timeline?</p> <p>23 Q. We would be talking 2008.</p> <p>24 A. I'm still not sure what you're asking me.</p>

<p style="text-align: right;">66</p> <p>1 Of course there was a time when the case was given 2 to another attorney in Boston. Are you asking me 3 did he approach us during that time or did he 4 approach us during the time that he had the case? 5 Q. During the time that he had the case. 6 A. He must have; he had the case. I don't 7 remember anything else after that. If somebody else 8 had the case, I don't remember him approaching us 9 then. 10 Q. Do you recall the extent of the help or the 11 conversation that was offered? 12 A. It has been so long, I can recall almost 13 nothing about that period of time. 14 Q. Did you personally hear the 2008 broadcast 15 by Tom Duggan on the radio where he reported that 16 the DiAdamos were being fired from this case? 17 A. No, I don't think I did, no. 18 Q. Do you know of anyone who actually heard 19 that broadcast? 20 A. No. 21 Q. Did you come to hear of that broadcast at 22 some point? 23 A. Today. 24 Q. Not then?</p>	<p style="text-align: right;">68</p> <p>1 Q. You testified earlier that you did not have 2 any direct dealings with Carmine DiAdamo as 3 personnel director. Did you have any other dealings 4 with Mr. DiAdamo? 5 A. Yes. 6 Q. Can you describe what dealings you had with 7 him? 8 A. It was a personal matter in which a young 9 lady who was homeless was fired from her job. And 10 she came into the personnel office looking for 11 employment. Of course we didn't have employment 12 then. But she had been terminated from her job and 13 accused of doing something and her employer was not 14 paying her her last check, or out-the-door check, 15 her last wages and salaries. 16 So I remember seeing Carmine outside and 17 I approached him and said do you know of anyone who 18 does this type of law on a free basis because the 19 young lady was homeless and didn't have any money. 20 He took her in and had a meeting with her. I don't 21 know what happened. I know two weeks later she 22 approached me and said thank you and said she got 23 her money from the old employer. 24 Q. That's the only time you ever spoke with</p>
<p style="text-align: right;">67</p> <p>1 A. I don't recall anything about the broadcast 2 being a part of this or any conversation until the 3 gentleman brought it up earlier today. 4 Q. Do you recall sending any emails to the 5 Sullivan administration regarding that broadcast 6 back in 2008? 7 A. I don't recall. 8 Q. Do you have any knowledge or recollection 9 of either Bill or Carmine DiAdamo talking to Tom 10 Duggan or the Valley Patriot about this matter? 11 A. I have no knowledge. 12 Q. The same question regarding Bill or Carmine 13 DiAdamo talking about Paula Porten. 14 A. I have no knowledge about that either. 15 Q. Just to broaden the prior question beyond 16 emails, do you recall any text messages being 17 exchanged between you and Mr. Duggan regarding the 18 DiAdamos' handling of the Traficanti case? 19 A. I don't recall. 20 MR. DIADAMO: I'm good. 21 EXAMINATION 22 BY MR. BROOKS: 23 Q. Good afternoon. 24 A. Good afternoon.</p>	<p style="text-align: right;">69</p> <p>1 him? 2 A. No, I'm pretty sure we said our 3 pleasantries and greetings during day, but I don't 4 remember discussing anything with Carmine. All our 5 workers' comp is through Bill. 6 Q. All the workers' comp is through William 7 DiAdamo. Was there ever any cases or litigation or 8 any other legal matters that Carmine DiAdamo 9 handled, to your knowledge? 10 A. Not that I know of, no. 11 Q. Apart from the workers' comp cases that 12 William DiAdamo was handling for the city, were 13 there other cases that William DiAdamo handled that 14 you dealt with William DiAdamo on? 15 A. Yes. 16 Q. Can you describe the other matters that 17 were not workers' comp matters? 18 A. Did you say workers' comp or not workers' 19 comp? 20 Q. Cases that were not workers' comp cases 21 that you dealt with William DiAdamo on. 22 A. No. My business with him was strictly 23 workers' comp. 24 Q. Now, you left the city in 2008?</p>

<p style="text-align: right;">70</p> <p>1 A. Yes.</p> <p>2 Q. And then returned in 2010?</p> <p>3 A. Yes.</p> <p>4 Q. For that period of time how were you</p> <p>5 employed?</p> <p>6 A. I worked with the IRS in Lowell,</p> <p>7 Massachusetts, a regional recruitment manager for</p> <p>8 the IRS, Department of Revenue.</p> <p>9 Q. You testified June Perkins, her job title</p> <p>10 was the benefits coordinator?</p> <p>11 A. Judy Perkins. Her real name is Judith. We</p> <p>12 call her Judy.</p> <p>13 Q. Was she employed by the city from 2006</p> <p>14 onward?</p> <p>15 A. Yes. Until 2010, I'm going to say the</p> <p>16 first week of January.</p> <p>17 Q. How did you communicate with Ms. Perkins?</p> <p>18 Was it in terms of face to face, were your offices</p> <p>19 close enough that you dealt with her face to face?</p> <p>20 A. Face to face, telephone.</p> <p>21 Q. You emailed each other information as well?</p> <p>22 A. If you look at our work area, her office,</p> <p>23 she has to literally come out of the budget and</p> <p>24 finance director office, come down the hallway, come</p>	<p style="text-align: right;">72</p> <p>1 McCann work for the City of Lawrence?</p> <p>2 A. I can't tell you. I know it was for a very</p> <p>3 long time.</p> <p>4 Q. Before you were there?</p> <p>5 A. Yes.</p> <p>6 Q. And what was his job title while you were</p> <p>7 personnel director?</p> <p>8 A. He was the Department of Public Works</p> <p>9 director.</p> <p>10 Q. And is it correct that Andrea Traficanti</p> <p>11 worked under Frank McCann?</p> <p>12 A. Yes.</p> <p>13 Q. And you learned while you were employed at</p> <p>14 the city that Andrea Traficanti and Frank McCann had</p> <p>15 become involved in a romantic relationship?</p> <p>16 A. Yes.</p> <p>17 Q. And eventually they became husband and</p> <p>18 wife, a married couple?</p> <p>19 A. I didn't know that.</p> <p>20 Q. Everybody knows that, right?</p> <p>21 A. That they are a married couple? No.</p> <p>22 Q. You didn't know that they were married?</p> <p>23 A. No.</p> <p>24 Q. At some point you knew they were in a</p>
<p style="text-align: right;">71</p> <p>1 through another set of doors and then another set of</p> <p>2 doors to my office. Her office is detached and not</p> <p>3 within our normal HR where I have my receptionist</p> <p>4 and confidential secretary. Sometimes an email or</p> <p>5 phone call would have been just as good as walking</p> <p>6 around or waiting for her to come back to her</p> <p>7 office.</p> <p>8 Q. So it was common for you to exchange emails</p> <p>9 with one another?</p> <p>10 A. Yes.</p> <p>11 Q. And it was common for you to exchange</p> <p>12 emails with Mr. DiAdamo regarding these workers'</p> <p>13 comp cases?</p> <p>14 A. Not specifically on health-related matters.</p> <p>15 But as a strategy standpoint, getting to write</p> <p>16 letters of light duty, who we needed to write light</p> <p>17 duty. Don't forget that you have to be at the</p> <p>18 industrial accident board to testify. But it wasn't</p> <p>19 related to anything specific on anyone's health that</p> <p>20 could have been seen by a third party.</p> <p>21 Q. So you were careful not to talk specifics</p> <p>22 about people's health conditions on your emails?</p> <p>23 A. Correct. Any emails going outside, yeah.</p> <p>24 Q. How long has Frank McCann work or did Frank</p>	<p style="text-align: right;">73</p> <p>1 substantive dating relationship, put it that way?</p> <p>2 A. Yes. The talk of City Hall.</p> <p>3 Q. It was not a very well-kept secret.</p> <p>4 A. No.</p> <p>5 Q. Is that a fair way to describe it?</p> <p>6 A. Correct.</p> <p>7 Q. Despite the fact that Andrea Traficanti</p> <p>8 worked underneath Frank McCann, were either party</p> <p>9 disciplined as a result of this?</p> <p>10 A. I don't remember any party being</p> <p>11 disciplined. I remember some other employees making</p> <p>12 an issue about the fact that there may have been a</p> <p>13 hostile work environment because of it.</p> <p>14 Q. Let me stop you there. You remember that</p> <p>15 some employees complained to you that they felt they</p> <p>16 were in a hostile work environment as a result of</p> <p>17 their relationship?</p> <p>18 A. Yes.</p> <p>19 Q. Because Andrea Traficanti is dating the</p> <p>20 boss, right?</p> <p>21 A. Right.</p> <p>22 Q. You knew along with thousands of other</p> <p>23 people, but you knew that Andrea Traficanti had a</p> <p>24 very close, personal relationship with Patrick</p>

<p style="text-align: right;">74</p> <p>1 Blanchette, right?</p> <p>2 A. I don't know how close, but yes.</p> <p>3 Q. She was frequently with Patrick Blanchette?</p> <p>4 A. Yes.</p> <p>5 Q. Not putting too fine a point on it, but</p> <p>6 they had a friendly relationship?</p> <p>7 A. Right.</p> <p>8 Q. At one point after Andrea Traficanti was</p> <p>9 out on her compensation claim, that's when she</p> <p>10 showed up at work at City Hall, a city council</p> <p>11 meeting with food; is that right?</p> <p>12 A. I thought it was a cake.</p> <p>13 Q. She showed up in the building?</p> <p>14 A. Yes.</p> <p>15 Q. And that was during the time she claimed</p> <p>16 she could not set foot in the building because it</p> <p>17 was to stressful for her. Is that fair to say?</p> <p>18 A. Yes.</p> <p>19 Q. The city council's meetings are held in</p> <p>20 City Hall, correct?</p> <p>21 A. Correct. I don't think this was a city</p> <p>22 council meeting. It was a daytime event where</p> <p>23 employees were at work. City council meetings are</p> <p>24 usually in the evenings and at night. This was not</p>	<p style="text-align: right;">76</p> <p>1 MS. RUANO: I'm directing him not to</p> <p>2 answer.</p> <p>3 MR. BROOKS: Just so we are clear,</p> <p>4 because we will have a hearing on this, the city's</p> <p>5 position is because the question relates in any way</p> <p>6 to a pending case you're going to instruct him not</p> <p>7 to answer?</p> <p>8 MS. RUANO: Without a protective order,</p> <p>9 I'm not going to let my client talk about an open</p> <p>10 litigation matter.</p> <p>11 MR. BROOKS: But he already did. He</p> <p>12 acknowledged knowing that Andrea Traficanti claimed</p> <p>13 that she could not set foot in City Hall. I'll ask</p> <p>14 it a different way.</p> <p>15 Q. You said you were not surprised to see</p> <p>16 Andrea Traficanti appear at that meeting.</p> <p>17 A. Correct.</p> <p>18 Q. Why is that?</p> <p>19 A. Nothing surprises me in City Hall.</p> <p>20 Q. But is it the case that you knew or had</p> <p>21 knowledge that Andrea Traficanti showed up at City</p> <p>22 Hall after she claims she couldn't go there?</p> <p>23 A. What was that?</p> <p>24 Q. You said you were not surprised to see</p>
<p style="text-align: right;">75</p> <p>1 a city council meeting. I thought it was an event.</p> <p>2 Q. So it was sort of a welcome event by</p> <p>3 Mr. Blanchette's new organization?</p> <p>4 A. Yes.</p> <p>5 Q. The City Hall members were present?</p> <p>6 A. I don't know who was present.</p> <p>7 Q. You learned that Andrea Traficanti showed</p> <p>8 up for that event?</p> <p>9 A. Yes.</p> <p>10 Q. Whether it was an official city council</p> <p>11 meeting or some other type of meeting; is that</p> <p>12 right?</p> <p>13 A. Yes. I was there.</p> <p>14 Q. Were you surprised to see Andrea Traficanti</p> <p>15 walk in?</p> <p>16 A. No, I wasn't surprised.</p> <p>17 Q. You knew that part of her claim was that</p> <p>18 she was incapable of bringing herself inside of City</p> <p>19 Hall because of her stress; is that right?</p> <p>20 MR. DIADAMO: Objection.</p> <p>21 MS. RUANO: If you know that as part of</p> <p>22 an open litigation, I direct you not to answer.</p> <p>23 MR. BROOKS: Why is that, if that is not</p> <p>24 a privileged conversation?</p>	<p style="text-align: right;">77</p> <p>1 Andrea Traficanti. I want to determine why that was</p> <p>2 the case. In other words, was it the case that</p> <p>3 Andrea Traficanti actually showed up for other</p> <p>4 events at City Hall during the time that she was out</p> <p>5 on a comp case?</p> <p>6 A. I'm not quite sure what you're asking. I'm</p> <p>7 not quite sure how to answer. All I can say is</p> <p>8 nothing surprises me anymore about any employee</p> <p>9 doing anything at City Hall. If you read the</p> <p>10 newspaper, you read sometimes people do things, and</p> <p>11 it doesn't surprise me anymore. I'm not sure what</p> <p>12 you're trying to get to or ask me. I don't</p> <p>13 understand.</p> <p>14 Q. Let me ask you more specifically. Did</p> <p>15 Andrea Traficanti show up, to your knowledge, at</p> <p>16 City Hall after she claimed she couldn't show up at</p> <p>17 City Hall?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know how many occasions, how many</p> <p>20 times that happened?</p> <p>21 A. I can just recall that once.</p> <p>22 Q. Other than the time she showed up with the</p> <p>23 case or whatever she brought to the meeting that was</p> <p>24 held, are you aware of any other occasions where</p>

<p style="text-align: right;">78</p> <p>1 Andrea Traficanti showed up at City Hall after going 2 out on her comp claim? 3 A. I can't recall at this time if she did or 4 not. I can't recall. She might have. I can't 5 recall. 6 Q. Now, Andrea Traficanti was the subject of 7 complaints by other workers. Is that a fair 8 statement? 9 A. Yes. 10 Q. You testified earlier today that you felt 11 that other people in the administration interfered 12 with your job. Is that a fair way to say it? 13 A. Yes. 14 Q. They made decisions which you felt were 15 your decisions to make? 16 A. Yes. Or for me to have input. 17 Q. They made decisions and you didn't have any 18 input in those decisions? 19 A. I don't feel I did, yes. 20 Q. Specifically with respect to 21 Ms. Traficanti, decisions were made to affect her 22 salary without your input. Is that fair to say? 23 MS. RUANO: If it involves anything in 24 an open litigation matter, I'm going to direct you</p>	<p style="text-align: right;">80</p> <p>1 increased Ms. Traficanti salary significantly, isn't 2 that correct, without asking you the numbers? 3 A. I don't know if significant is a word 4 without looking at the numbers. 5 Q. In response to the net result of Andrea 6 Traficanti's salary being increased, were you upset 7 with that? 8 A. No, I don't recall being upset with it. 9 Q. What was your position on the net result of 10 her salary being increased? 11 A. I don't remember ever being upset with her 12 salary increase on the nonunion classification. 13 That wasn't one of my concerns with that. 14 Q. So when you testified earlier that 15 sometimes other people in the administration made 16 decisions that should have been yours, did any of 17 those decisions have anything to do with Andrea 18 Traficanti's position or Andrea Traficanti herself? 19 A. Any decisions by anyone in City Hall, but 20 more specifically my superiors or my colleagues, 21 were made to benefit or not benefit Ms. Traficanti 22 and did I get upset at that? Is that what you're 23 saying? 24 Q. I'm asking you if any of the decisions that</p>
<p style="text-align: right;">79</p> <p>1 not to answer. 2 THE WITNESS: It does. I won't answer. 3 Q. Let's figure that out. There was a public 4 meeting by the city council in which Andrea 5 Traficanti received a substantial increase in her 6 salary; is that right? 7 A. I don't recall her -- I think you may have 8 to broaden this on timeline. There was a 9 reclassification of all the nonunion employees at 10 one time but not specifically Ms. Traficanti. We 11 are talking about 2005 August where an outside 12 consultant who was already working with the City of 13 Lawrence before my arrival. When I arrived, we 14 finished the reclassification and producing a 15 new compensation policy and reclassification policy. 16 Ms. Traficanti being a nonunion employee happened to 17 be one of those individuals in the nonunion 18 reclassification and compensation. So I can't 19 remember her salary then and what she was earning 20 now. Anyone earning or being readjusted on their 21 salary wasn't only just for Ms. Traficanti but it 22 was for the entire nonunion classification 23 compensation policies. 24 Q. The effect of that classification change</p>	<p style="text-align: right;">81</p> <p>1 you testified about earlier, that people from the 2 administration reclassified employees or did other 3 things that you didn't have much or any input in, 4 did Andrea Traficanti benefit from any of those 5 decisions? 6 MR. DiADAMO: Objection. 7 A. I'm not going to answer that because it is 8 part of an open, ongoing case. 9 Q. In what way is this a part of the open 10 case? 11 MR. DiADAMO: Objection. 12 Q. I'm asking about historical salary changes. 13 MS. RUANO: I'm going to direct him not 14 to answer that question. 15 MR. BROOKS: I need to know more how it 16 would affect the current case. If the city isn't 17 fighting over what her end position is, how could a 18 prior raise have anything to do with a workers' comp 19 case? 20 MS. RUANO: If you want to compel him to 21 answer that, you can put that before a judge and 22 we'll respond then. 23 Q. Isn't it correct that when the 24 reclassification which benefited Andrea Traficanti</p>

<p style="text-align: right;">82</p> <p>1 went through the city council there were other 2 employees that worked alongside Andrea Traficanti 3 that did not receive any raise? 4 MR. DiADAMO: Objection. 5 MS. RUANO: Again, if your answer is 6 going to involve the open litigation matter, I would 7 direct you not to answer that portion. 8 A. Those are private documents. 9 Q. I'm not asking specific names. I'm asking 10 if there were other people that did not receive the 11 same benefit that Andrea Traficanti did from those 12 raises. 13 MR. DiADAMO: Objection. 14 A. I think you should narrow down your 15 question to are we talking about in her office or 16 the whole type of city employees? 17 Q. In her office, people who worked alongside 18 with her. 19 A. Everyone in her office was union employees, 20 so it didn't matter in this case. She was nonunion. 21 I think she was the only nonunion besides Mr. McCann 22 who is a contracted employee. It didn't really 23 affect anyone in her office. 24 Q. So the change, the classification change</p>	<p style="text-align: right;">84</p> <p>1 request or any questions to the press, and I might 2 have done so. 3 Q. In the course of your working for the city, 4 you've had numerous, quote/unquote, off-the-record 5 conversations with the reporters from the Lawrence 6 Eagle Tribune? 7 A. Oh, yes; everyone comes around asking for 8 something specific and it is off the record. I 9 would direct them to put in public record requests 10 to the city attorneys' office. 11 Q. What was your relationship with Patrick 12 Blanchette while you were employed by the City of 13 Lawrence? 14 A. During this time period? 15 Q. From 2007 to say the present. 16 A. That is a little difficult to explain 17 without dividing the period. 18 Q. Has your relationship changed over time 19 between yourself and Patrick Blanchette? 20 A. It had to. As personnel director, it 21 wasn't very cordial. After I came back in 2010, it 22 remained cordial but it didn't change the fact that 23 it wasn't a nice relationship to begin with. I had 24 to work with him. He's the economic development</p>
<p style="text-align: right;">83</p> <p>1 benefited only nonunion personnel? 2 A. Correct. 3 Q. And the union personnel did not receive any 4 benefit from that change? 5 A. Not from that particular, but contract 6 bargaining and other, they probably did. 7 Q. You said you didn't recall being a source 8 of any stories published in Mr. Duggan's newspaper, 9 the Valley Patriot, right? 10 A. Correct. 11 Q. You've been the source of other stories 12 that were published in other media; is that right? 13 A. For example? 14 Q. For example, stories in the Lawrence Eagle 15 Tribune? 16 A. If I was quoted on it, most likely. 17 Q. What if you weren't quoted on it? Have you 18 been the source of stories when you weren't quoted 19 on them? 20 MR. DiADAMO: Objection. 21 A. I can't recall. I would have to go back 22 and check stories. I don't recall being a source on 23 something that I wasn't quoted on. Unless the mayor 24 or attorney asked me to release any public records</p>	<p style="text-align: right;">85</p> <p>1 director. I'm not there to like anyone and nobody 2 is there to like me. We are there to do the work, 3 is the way I saw it. 4 Q. So what was the source of any friction 5 between you and Mr. Blanchette? 6 A. I think there were several. But one of 7 those can be part of this open case. On the advice 8 of my attorney, I'm not going to answer that 9 question. 10 Q. So you said one of those. What about the 11 others? Tell us all of them except what may 12 affect -- 13 A. As personnel director I have to go before 14 the city council on any particular week for a 15 request or a document or answer their questions. I 16 thought that there were nine people there and they 17 all want to run for mayor. It gets political very 18 quickly. Sometimes I felt I was being thrown under 19 the bus in camera just to show. I called him up a 20 few times on it. There were some other things that 21 I didn't agree. I don't remember exactly all of 22 them, but I know one was a big one that had to do 23 with some information being released. And he was 24 unhappy -- actually, I think he might have sent the</p>

<p style="text-align: right;">86</p> <p>1 email that indicated, or I felt indicated that the 2 personnel department had just given his personal 3 information out there. But we were already bad 4 before that. That was just the ice on the top for 5 him trying to send me a message. 6 Q. Are you referring specifically to the 7 information that was published regarding tax liens 8 that Mr. Blanchette had? 9 A. I don't recall. I don't think it was that 10 one. I think it was something else. I think it had 11 to do with Social Security or something like that. 12 I would have to check the emails. There was an 13 email correspondence. 14 Q. But you're aware, you're fully aware that 15 when Patrick Blanchette decided to run for mayor of 16 Lawrence and announced his candidacy that the 17 front-page stories talking about his IRS liens made 18 it very quickly into the news; is that right? 19 A. Yes. I was working at the IRS back then 20 and I read it in the newspaper, yes. 21 Q. Since you were working at the IRS at that 22 point, did Mr. Blanchette ever accuse you of being 23 the source of the information that was published 24 about his tax lien problems?</p>	<p style="text-align: right;">88</p> <p>1 information. I think it was totally different. But 2 his email conduct implied sarcastically for us to 3 investigate. I took it personally. 4 Q. Suggesting -- not to put words in your 5 mouth -- let's investigate this meaning that he 6 knows or suspects that you were involved somehow? 7 A. I don't know what his suspicion might have 8 been. 9 Q. You said you received an email PC. What do 10 you mean by PC? 11 A. Personal computer on my desk. The email, I 12 remember reading it, it came to the work PC and I 13 was working with the City of Lawrence then. That's 14 why I remember that. If I was working with the City 15 of Lawrence then, it wasn't the tax lien. When the 16 tax liens thing came out, I was working with the 17 IRS. There was no way that I was at City Hall in 18 front of a computer. 19 Q. Sure. To your knowledge, what is the email 20 retention policy that the City of Lawrence has? 21 A. I got asked that question before. I 22 thought there was a law passed not too long ago, 23 maybe four or five years ago where it states that 24 state, federal and local governments must keep</p>
<p style="text-align: right;">87</p> <p>1 A. No. I don't think it was about that. It 2 was something else, another document that was 3 released with the Social Security. It wasn't the 4 tax liens. I was at the IRS then and he wouldn't 5 send me an email unless it was personal. He never 6 did send me a personal email. This email I'm saying 7 that I received at my office PC. It had something 8 to do with some other document. I wasn't working at 9 the City of Lawrence during that time period that 10 they were attributing it was reporting on his issue 11 with the taxes. 12 Q. But you were working for the IRS when the 13 Eagle Tribune published the story on his taxes? 14 A. Yes. 15 Q. You weren't working for the city. 16 A. No. 17 Q. Was it his impression that you were somehow 18 responsible for the leaking of the information? 19 A. No. You asked me earlier besides the open 20 case can I give you some examples. I gave the first 21 one, the one before the council. Another example 22 was that he sent a communication to my office about 23 a document being released. I don't think that 24 document had anything to do with the tax lien</p>	<p style="text-align: right;">89</p> <p>1 emails now probably forever. I'm not sure exactly, 2 I'm being sarcastic with the forever thing. 3 My emails can only hold so much before a 4 statement comes up saying you are about to exceed 5 the limit and I have to delete it. I know IT have 6 some rules that they have to keep all the emails 7 after a certain date and not destroy them. 8 Q. What type of email client does your office 9 use to generate and receive emails? 10 A. Microsoft Outlook. 11 Q. Has that been the case since 2007? 12 A. I'm pretty sure it is not the same but 13 upgraded, but back then it was probably Outlook. 14 Q. Probably an early version of Outlook? 15 A. Yes. 16 Q. Did you back up the Outlook to a remote 17 location? 18 A. No, we don't do that. 19 Q. That's done by an IT person? 20 A. Most likely, yes. 21 Q. Have you ever gone back in the last couple 22 of years and looked to see if the IT department had 23 older emails? 24 A. Related to this?</p>

<p style="text-align: right;">90</p> <p>1 Q. Just in any event.</p> <p>2 A. Yes.</p> <p>3 Q. In general terms, in connection with what?</p> <p>4 A. The district attorneys' office, Essex</p> <p>5 County, requested a slew of information, emails,</p> <p>6 phone calls, text messages. We asked the IT for</p> <p>7 help, and they did.</p> <p>8 Q. They produced them?</p> <p>9 A. Yes.</p> <p>10 Q. Do you remember how old those emails were?</p> <p>11 A. No. Yes, I'm sorry. I believe they</p> <p>12 requested information from January 2010 to the time</p> <p>13 that they were requesting it.</p> <p>14 MS. RUANO: Off the record.</p> <p>15 (A recess was taken.)</p> <p>16 Q. Mr. Bonet, did Patrick Blanchette ever</p> <p>17 interfere with your duties as personnel director?</p> <p>18 A. I don't recall specifically anything. I'm</p> <p>19 sure at city council they pass ordinances and rules</p> <p>20 that do affect my department. I do recall during</p> <p>21 the 2005 classification of the nonunion employees</p> <p>22 that for some reason I felt that he was, because</p> <p>23 they wanted the confidential secretaries to be rated</p> <p>24 at a higher rating that I or my consultant thought</p>	<p style="text-align: right;">92</p> <p>1 workers' comp was given to someone else and I didn't</p> <p>2 know about it until after it occurred. Of course,</p> <p>3 the city council, city council president, yeah.</p> <p>4 Q. What about the city attorneys' office, were</p> <p>5 you frustrated with your dealings with them?</p> <p>6 A. I can't recall anything specifically.</p> <p>7 Q. Attorney Boddy, any frustration with your</p> <p>8 relationship with him?</p> <p>9 A. I can't recall in that timeline.</p> <p>10 Q. Did you express in either email or text</p> <p>11 message format any of your frustrations with the</p> <p>12 various entities or people we just talked about?</p> <p>13 A. No. But with the mayor I did. I think it</p> <p>14 was I gave him two weeks' professional notice. I</p> <p>15 sat down with him and presented him the draft. I</p> <p>16 presented him a draft, but didn't sign it. I gave</p> <p>17 him the two-liner thing and made that the official.</p> <p>18 But we sat down for a good hour, hour and a half.</p> <p>19 Q. You had these thoughts that didn't end up</p> <p>20 in the file?</p> <p>21 A. Not that I didn't want to burn my bridges,</p> <p>22 but I just didn't want anyone to use that letter and</p> <p>23 just publish it out and say things about me and the</p> <p>24 city and make them look bad. It wasn't my intention</p>
<p style="text-align: right;">91</p> <p>1 they should be rated. And until that was corrected,</p> <p>2 the whole council would not be approving that</p> <p>3 particular classification and compensation scale.</p> <p>4 So, of course, consulting came back and adjusted and</p> <p>5 it was approved. So I thought that that was trying</p> <p>6 to interfere.</p> <p>7 Q. Any other times that Patrick Blanchette</p> <p>8 interfered with your job?</p> <p>9 A. I can't recall specifically.</p> <p>10 Q. Isn't it true that when you left the</p> <p>11 employment of City Hall in 2008 one of the reasons</p> <p>12 you left was because you were frustrated with the</p> <p>13 city council --</p> <p>14 MS. RUANO: Objection.</p> <p>15 Q. -- and their dealings with you?</p> <p>16 MS. RUANO: You can answer.</p> <p>17 A. That and some other things that I said</p> <p>18 earlier, about other individuals interfering with</p> <p>19 the department.</p> <p>20 Q. You were frustrated with the Department of</p> <p>21 Public Works?</p> <p>22 A. I don't recall being frustrated with the</p> <p>23 Department of Public Works. I recall being</p> <p>24 frustrated with the finance director, the fact that</p>	<p style="text-align: right;">93</p> <p>1 to do that. My intention to the mayor was to let</p> <p>2 him know why I thought I needed to get out of there</p> <p>3 right now.</p> <p>4 Q. Were you ever threatened by Frank McCann</p> <p>5 while you were employed there in the personnel</p> <p>6 department?</p> <p>7 A. I don't remember being threatened by Frank</p> <p>8 McCann.</p> <p>9 Q. Do you feel that Frank McCann is a</p> <p>10 dangerous person?</p> <p>11 A. I don't think I felt that.</p> <p>12 Q. Have you expressed or have you described</p> <p>13 Frank McCann as dangerous to anyone in this room</p> <p>14 other than your lawyer?</p> <p>15 A. I don't recall.</p> <p>16 Q. If I represent to you that I have text</p> <p>17 messages from you describing Frank McCann as</p> <p>18 dangerous, would that surprise you?</p> <p>19 A. I don't recall. I didn't say I didn't do</p> <p>20 it. I don't recall.</p> <p>21 Q. You don't deny doing it, you just don't</p> <p>22 recall?</p> <p>23 A. I don't recall.</p> <p>24 Q. You are aware that Andrea Traficanti</p>

<p style="text-align: right;">94</p> <p>1 applied for other city jobs while she was out on 2 workers' comp; is that right? 3 A. I don't recall if she did or not. 4 Q. If I suggested to you that she applied for 5 cemetery director at one point when she was out on 6 comp, would that help your memory? 7 A. She may have. I just don't recall. 8 Q. Are you aware that Andrea Traficanti was 9 seeking a position at the Lawrence Airport while she 10 was out on comp? 11 A. I don't recall that either. 12 Q. Did you receive any pressure from anyone to 13 try to help Andrea Traficanti become employed in any 14 other city position after she made her comp case? 15 A. I don't recall if I did or not. 16 Q. Are you aware of William DiAdamo attempting 17 to help Andrea Traficanti secure employment while 18 she was out on her comp case? 19 A. I think that would be privileged 20 information under attorney-client, conversations 21 that we had about Ms. Traficanti about that. 22 Q. Did you learn from people other than 23 Mr. DiAdamo that Mr. DiAdamo was assisting or 24 attempting to assist Andrea Traficanti becoming</p>	<p style="text-align: right;">96</p> <p>1 A. It does concern the open matter. 2 Q. Who is Marc Andrews? 3 A. I believe he's a former finance director. 4 Q. Do you remember the dates that he was 5 working for the city? 6 A. No, not off the top of my head. He was 7 there when I was there. 8 Q. Isn't it correct that Marc Andrews was the 9 conduit for all of these attempts to employ Andrea 10 Traficanti after she went out on her comp case? 11 A. I don't know if he was or not. I can't 12 recall if he was or not. 13 Q. Didn't you express frustration with the 14 fact that Marc Andrews was being used as the conduit 15 to employ Andrea Traficanti in other positions? 16 A. I can't remember. It happened so long ago. 17 I'm not saying it didn't happen. During 18 conversations between attorneys and the mayor and 19 finance, we have to find a way to bring this person 20 or any person back from workers' comp whether it is 21 light duty or transfer to another position that they 22 can no longer work. Conversations like that might 23 have happened between myself and the attorneys and 24 the mayor and cc'd to his economic and planning</p>
<p style="text-align: right;">95</p> <p>1 employed in any other city positions after she went 2 out on her comp case? 3 A. No, I don't recall anyone. 4 Q. Do you recall sending more than one email 5 to anyone in this room discussing Mr. DiAdamo 6 attempting to help Ms. Traficanti become employed in 7 any other city positions while she was out on her 8 comp case? 9 MR. DiADAMO: Objection. 10 MS. RUANO: If it involves an open 11 litigation matter, I'm going to direct you not to 12 answer. 13 A. Can you repeat it, again? 14 Q. Do you recall sending more than one email 15 to anyone in this room, I'll reduce that to anyone 16 other than Mr. DiAdamo and your present lawyer, do 17 you recall sending multiple emails regarding 18 Mr. DiAdamo's efforts in assisting Ms. Traficanti to 19 find employment in any other city job after she went 20 out on her comp case? 21 MR. DiADAMO: Objection. 22 MS. RUANO: I'll instruct you if it 23 involves anything concerning the open matter, I'll 24 direct you not to answer it.</p>	<p style="text-align: right;">97</p> <p>1 directors who were part of his office staff, and his 2 confidential secretary at the time. But I don't 3 know specifically anything that I might have said or 4 he might have done, Mr. Marc Andrews, that might 5 have said that. I can't remember back that far. 6 I'm not saying it didn't happen, just that I can't 7 remember. 8 Q. Help me figure this out. Accept my 9 representation that you have sent emails expressing 10 frustration at Marc Andrews being used as conduit 11 for these employment positions. Why wouldn't that 12 make you happy to get her back employed? 13 MR. DiADAMO: Objection. 14 A. I didn't say that he did or did not. I 15 didn't answer that question. 16 Q. Were you actively helping Andrea Traficanti 17 become employed in a different city position while 18 she was out on comp? 19 MR. DiADAMO: Objection. 20 MS. RUANO: To the extent that it 21 involves an open litigation matter, I direct you not 22 to answer. 23 Q. That's all I have. 24 MR. HAN: No questions.</p>

Exhibits: None

Volume 1, Pages 1-120

COMMONWEALTH OF MASSACHUSETTS

Essex County

Superior Court

WILLIAM H. DiADAMO,

Plaintiff

vs.

Docket No. 08-1931D

THOMAS J. DUGGAN, JR.,

VALLEY PATRIOT, INC.,

MERRIMACK VALLEY RADIO, LLC,

MICHAEL SWEENEY,

WILLIAM MANZI, and

THOMAS SCHIAVONE,

Defendants

DEPOSITION OF RICHARD D'AGOSTINO

Thursday, February 20, 2014, 1:24 p.m.

Lawson & Weitzen, LLP

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<p style="text-align: right;">3</p> <p>1 APPEARANCES: (Continued)</p> <p>2</p> <p>3 J. Mark Dickison, Esq. Lawson & Weitzen, LLP 4 88 Black Falcon Avenue, Suite 345 Boston, Massachusetts 02210 5 617-439-4990 Fax 617-439-3987 mdickison@lawson-weitzen.com 6 for Merrimack Valley Radio, LLC</p> <p>7</p> <p>8 Leigh Ann Johnson, Esq. 9 Brooks & Crowley LLP The Ames Schoolhouse Office Center 10 450 Washington Street, Suite LL9 Dedham, Massachusetts 02026 11 781-251-0555 x106 Fax 781-251-0552 leighann@brooksandcrowley.com 12 for Michael Sweeney</p> <p>13</p> <p>14 Joanna H. Coll, Esq. Davids & Cohen 15 40 Washington Street, Suite 20 Wellesley, MA 02481 16 781-416-5055 Fax 781-416-4344 jcoll@davids-cohen.com 17 for William Manzi</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 Thomas J. Duggan, Jr.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">5</p> <p>1 going to ask you a series of questions this</p> <p>2 afternoon about what, if any, personal knowledge you</p> <p>3 might have about those events.</p> <p>4 A. If I may?</p> <p>5 Q. Absolutely.</p> <p>6 A. May I ask, is the city waiving the</p> <p>7 privilege regarding this matter?</p> <p>8 MS. RUANO: No.</p> <p>9 MR. DUGGAN: But they already have.</p> <p>10 Q. Part of the procedural history that we have</p> <p>11 here, and I might mark it as an exhibit, is that</p> <p>12 Judge Cornetta has considered this issue of waiver,</p> <p>13 and he sent out a procedural order that basically</p> <p>14 allows us to kind of ask questions of witnesses to</p> <p>15 tee the privilege issue up, and then he's going to</p> <p>16 make some rulings. So my first question is, have</p> <p>17 you seen that order?</p> <p>18 A. No, I have not.</p> <p>19 Q. I'm going to dig it out in a moment and</p> <p>20 show it to you and mark it so that you are on the</p> <p>21 same page as I am.</p> <p>22 A. Certainly.</p> <p>23 Q. Let me just go over the background before I</p> <p>24 forget. Then I'll ask you a series of questions.</p>

<p style="text-align: right;">6</p> <p>1 It sounds like the privilege will be asserted so I</p> <p>2 might be asking you questions, the privilege is</p> <p>3 asserted, and we'll adjourn and come back another</p> <p>4 day, unfortunately.</p> <p>5 A. Okay.</p> <p>6 Q. Have you had your deposition taken before?</p> <p>7 A. Yes.</p> <p>8 Q. You are a practicing attorney?</p> <p>9 A. Yes, I am.</p> <p>10 Q. Are you familiar with depositions?</p> <p>11 A. Yes, I am.</p> <p>12 Q. I will dispense with the usual explanation.</p> <p>13 Could you state your name for the record.</p> <p>14 A. Richard J. D'Agostino.</p> <p>15 Q. What is your current occupation?</p> <p>16 A. I'm an attorney.</p> <p>17 Q. Where do you practice?</p> <p>18 A. I'm licensed to practice out of the Supreme</p> <p>19 Judicial Court of the Commonwealth of Massachusetts</p> <p>20 and the federal courts.</p> <p>21 Q. Do you have a current business?</p> <p>22 A. Yes.</p> <p>23 Q. What's your business address?</p> <p>24 A. Post Office Box 2138, D'Agostino Law</p>	<p style="text-align: right;">8</p> <p>1 year. I worked in an autobody shop. I was also the</p> <p>2 assistant recreation director in the City of</p> <p>3 Lawrence under the CETA program. I was elected</p> <p>4 alderman of engineering in 1981, served as city</p> <p>5 councilor and department head of the public works at</p> <p>6 that time. I worked at Multicore., a private firm</p> <p>7 subsequent to my tenure in office. Then I ran the</p> <p>8 Lawrence Municipal Airport from 1987 to 1994 --</p> <p>9 1996, sorry -- at which time I graduated from law</p> <p>10 school, took the bar exam. I was admitted in</p> <p>11 December of '96 and commenced private practice in</p> <p>12 February of 1997.</p> <p>13 Q. Let me focus now on your legal career.</p> <p>14 What did you do after you opened your own practice</p> <p>15 in February of 1997?</p> <p>16 A. I practiced about nine years on my own. I</p> <p>17 was in partnership for a couple of years with a law</p> <p>18 school classmate out of Topsfield, Massachusetts.</p> <p>19 Then I went back to my own practice and practiced in</p> <p>20 the Greater Lawrence area all that time.</p> <p>21 In 2005 I was hired by the City of</p> <p>22 Lawrence as an assistant city attorney. I worked</p> <p>23 there until April of 2012.</p> <p>24 Q. During the time period that you were</p>
<p style="text-align: right;">7</p> <p>1 Office, Methuen, Massachusetts 01844.</p> <p>2 Q. What's your current residential address?</p> <p>3 A. 75 Pelham Road, Salem, New Hampshire.</p> <p>4 Q. Are you currently a resident of New</p> <p>5 Hampshire?</p> <p>6 A. Yes, I am.</p> <p>7 Q. Do you have any plans to move in the near</p> <p>8 future?</p> <p>9 A. No, I'm not.</p> <p>10 Q. If we needed to get in touch with you</p> <p>11 again, we'd be able to get in touch with you at that</p> <p>12 address?</p> <p>13 A. Yes.</p> <p>14 Q. Can you just briefly describe your</p> <p>15 educational background.</p> <p>16 A. Yes. I graduated from the Henry K. Oliver</p> <p>17 Public School in Lawrence in 1968. I graduated from</p> <p>18 Central Catholic High School in Lawrence 1972,</p> <p>19 Merrimack College in North Andover in 1976, and the</p> <p>20 Massachusetts School of law in 1996.</p> <p>21 Q. Can you give me a brief background of your</p> <p>22 professional career since the time you finished</p> <p>23 college.</p> <p>24 A. Yes. I was a school teacher for about a</p>	<p style="text-align: right;">9</p> <p>1 working for the City of Lawrence, was your practice</p> <p>2 of law just on behalf of the City of Lawrence? In</p> <p>3 other words, did you cease your private practice?</p> <p>4 A. I still did private work.</p> <p>5 Q. During this time period 2005 to 2012, were</p> <p>6 you working out of City Hall in Lawrence or did you</p> <p>7 have a different location?</p> <p>8 A. No, I was at 200 Common Street, third</p> <p>9 floor.</p> <p>10 Q. In general, could you describe what your</p> <p>11 duties and responsibilities were as the assistant</p> <p>12 city solicitor for the City of Lawrence.</p> <p>13 A. I obviously assisted the city attorney in</p> <p>14 all matters, all legal matters. I basically seemed</p> <p>15 to handle most of the litigation as well as the</p> <p>16 labor work, contract negotiation, 10 out of the 12</p> <p>17 labor unions I negotiated their contracts, handling</p> <p>18 arbitrations, grievance proceedings, matters of</p> <p>19 opinion for the various department heads, the city</p> <p>20 council, the mayor. I assisted where I was directed</p> <p>21 but I handled most of the litigation and the labor.</p> <p>22 Q. Did you have any area of responsibility for</p> <p>23 workers' compensation matters?</p> <p>24 A. No, I did not.</p>

<p style="text-align: right;">10</p> <p>1 Q. Did you have any area of responsibility for 2 hiring outside counsel on behalf of the City of 3 Lawrence? 4 A. No. 5 Q. With respect to William DiAdamo, who is the 6 plaintiff in this case, could you just tell us how 7 you first came to know Mr. DiAdamo or interact with 8 him in any way? 9 A. Well, I actually came to know 10 Mr. DiAdamo -- I've known his father for many years. 11 We were involved politically. And as a politician 12 in the city since 1982, I had known the DiAdamos. I 13 was also a member of the Greater Lawrence Sanitary 14 District Commission from 1982 through 1994. We had 15 hired the DiAdamo Law Firm, Carmine was the lawyer 16 at the time, which is Mr. William DiAdamo's father. 17 I've known the DiAdamo family for nearly 30 years. 18 I met Billy -- I didn't know Billy or 19 the sons or offspring until he returned to Lawrence 20 to work with his father. He was at Lawrence City 21 Hall then. That's when I got familiar with 22 Mr. William DiAdamo. 23 Q. Just to circle back to the Greater Lawrence 24 Sanitary District, can you tell us a little more</p>	<p style="text-align: right;">12</p> <p>1 A. I appeared before their retirement board to 2 purchase some credited time toward my retirement for 3 the pension system. But other than that, no. I 4 mean, I was aware of their ongoing just by being 5 involved in the political fabric. 6 Q. Sure. One of the issues in this case just 7 has to do with the amount of compensation that the 8 Greater Lawrence Sanitary District was paying to 9 Bill DiAdamo or Carmine DiAdamo during this time 10 period of 2007 to 2008. So again, based on what 11 you've told us, it sounds like you wouldn't have any 12 personal knowledge or insight on what the 13 compensation level was that was being paid by the 14 Greater Lawrence Sanitary District? 15 A. No, I had no personal knowledge of that. I 16 was aware that Mr. William DiAdamo was representing 17 the district, just a general awareness. I didn't 18 know if the family business had been handed down 19 over there. But that's all I was aware of. 20 Q. On that point, how would you have been 21 aware that Bill DiAdamo was representing or working 22 for the Greater Lawrence Sanitary District? By way 23 of public media or by way of personal contacts? 24 A. Several venues, avenues. By way of public</p>
<p style="text-align: right;">11</p> <p>1 about the time you were affiliated with that entity? 2 A. When I was elected alderman of engineering 3 in 1981, I began my tenure in 1982. I was appointed 4 by the mayor of the city at the time to serve on 5 that commission. It was a kind of standard practice 6 where the director of engineering would serve as one 7 of the city's three representatives to that board. 8 I served, however, past my term as alderman until 9 1994. And I was chairman several times during that 10 tenure, 12-year tenure. 11 Q. Subsequent to 1994, did you have any 12 further participation with the Greater Lawrence 13 Sanitary District? 14 A. No. 15 Q. So if I were to ask you a series of 16 questions about the relationship between the Greater 17 Lawrence Sanitary District and any dealings it might 18 have had with William DiAdamo in the 2007-'08 time 19 frame, would you have any personal information about 20 that? 21 A. No, I have no personal knowledge of that. 22 Q. During that time frame of 2007 and 2008, 23 did you have any affiliation or dealings with the 24 Greater Lawrence Sanitary District?</p>	<p style="text-align: right;">13</p> <p>1 media, by way of discussions with municipal 2 employees, by way of discussions with public works 3 director at the time, Mr. Frank McCann, who served 4 on that board. And Mr. DiAdamo's law office is 5 right next door to City Hall. In fact, when I first 6 started practicing, I was leasing space from an 7 attorney who was leasing from Mr. DiAdamo's father 8 who owned the building. So I would see Mr. McCann 9 speak to Mr. DiAdamo. I was just aware that there 10 was a relationship that he represented the Greater 11 Lawrence Sanitary District. 12 Q. Turning to the subject of Mr. McCann, you 13 had mentioned he was at the time of 2007-2008 in 14 charge of the Lawrence Public Works; is that 15 correct? 16 A. Yes. 17 Q. You mentioned this in passing. What do you 18 know about the nature of any relationship between 19 Mr. McCann and William DiAdamo? 20 A. Would you repeat the question? 21 Q. Sure. Could you tell me what do you know 22 in terms of how extensive or what was the nature of 23 the relationship between Frank McCann and William 24 DiAdamo?</p>

<p style="text-align: right;">14</p> <p>1 A. I would say they were friendly. I don't 2 know if they were socially friendly as such. But 3 they were certainly as perhaps colleagues or 4 employer/employee type of relationship. They seemed 5 very friendly. As I say, I don't know specifically 6 with Mr. McCann, I would see them speaking -- 7 outside City Hall speaking many times or see 8 Mr. McCann go into Mr. DiAdamo's office. I don't 9 know the content of what they were speaking. 10 Q. By virtue of your position of working for 11 the City of Lawrence and being actually inside City 12 Hall, do you recall during the time period that you 13 were working at City Hall did you ever observe 14 Mr. McCann and Mr. DiAdamo meet in City Hall on any 15 occasions? 16 A. Not that I recall. Mr. McCann's office was 17 on the second floor in the corner, and my office was 18 on the third floor in the opposite corner. 19 Q. Do you know or have any information as to 20 whether or not Mr. McCann was referring any business 21 to Bill DiAdamo or to Carmine DiAdamo? 22 A. That I do not know. 23 Q. Do you know what relationship existed, if 24 any, between Mr. Frank McCann and Carmine DiAdamo?</p>	<p style="text-align: right;">16</p> <p>1 recall? 2 A. A combination of both, I would say. 3 Q. With respect to Mr. McCann, to circle back 4 to him for a moment, do you have a personal 5 relationship with Mr. McCann? 6 A. Yes, I had a personal relationship with 7 them for many years, particularly Mr. McCann. 8 Mr. McCann worked for me in the street department. 9 I made him superintendent. And the water 10 department. We developed a friendship. He was a 11 political supporter, as was later on 12 Ms. Traficanti's mother, Carolyn. 13 Q. Were the Traficanti family involved in city 14 politics? 15 A. Yes, long before I got there. 16 Q. Do you recall with respect to 17 Ms. Traficanti, did you have any interaction with 18 her during the time you were also an employee of the 19 City of Lawrence? 20 A. Yes. 21 Q. What was the nature of that interaction? 22 A. I had been to their house several times, a 23 New Year's party there. We have gone out to dinner, 24 my wife and I and Frank and Andrea, on several</p>
<p style="text-align: right;">15</p> <p>1 A. No, other than the same type of 2 relationship. Carmine was still initially involved 3 with the Greater Lawrence Sanitary District. So any 4 discussions or talks -- as I said, we all know each 5 other and have been around for a long time. 6 Q. Let me ask you about the main issue in this 7 case, which is the Andrea Traficanti matter. Are 8 you aware of who Andrea Traficanti is? 9 A. Yes, I am. 10 Q. Who is she? 11 A. The professional response. She is -- she 12 was an employee of the City of Lawrence. She worked 13 directly for Mr. McCann, who at one time was her 14 boyfriend and subsequently became her husband. I'm 15 not sure what her exact title was, projects 16 coordinator, something of that nature. She was a 17 municipal employee. I knew her mother for nearly 40 18 years; and her father worked for me in the water 19 department up until the time of his death. I know 20 who Andrea is. I also attended Frank and Andrea's 21 wedding. I thought Mr. DiAdamo was there, but I 22 could be mistaken in that recollection. 23 Q. When you were invited to that wedding, were 24 you invited by the bride or the groom, if you</p>	<p style="text-align: right;">17</p> <p>1 occasions. 2 Q. In terms of a professional interaction with 3 her, did you have one at all with Ms. Traficanti 4 during the time period you both worked for the City 5 of Lawrence? 6 A. Only from time to time she might come up to 7 get a legal opinion concerning city business, or 8 something of that nature. 9 Q. Are you familiar with the time frame of 10 March 2007, Ms. Traficanti filed a workers' 11 compensation claim in the Department of Industrial 12 Accidents against the City of Lawrence? 13 A. Yes. 14 Q. How did you become familiar with that 15 claim? I guess I have to warn you, if your answer 16 requires you to disclose -- if you learned about 17 information through your capacity as an attorney for 18 the City of Lawrence, then I suppose there's 19 probably an objection that will be lodged about 20 that. My question right now is just focused on what 21 you might have learned in the normal course of 22 business rather than in your capacity as an 23 attorney. 24 A. Beyond any privileged disclosure, it was a</p>

<p style="text-align: right;">18</p> <p>1 common, I guess anecdote around City Hall, Mr. Frank 2 Bonet, the personnel director, went around telling 3 as many people as he could, and employees would 4 discuss it openly in coffee shops or in the 5 hallways, whatever. And so I was aware of it, well 6 aware of it. 7 Q. What was the information that you were 8 hearing in coffee shops or just in office banter 9 about the nature of Ms. Traficanti's claim? 10 A. Just that she had gone out on a stress 11 claim, that she felt stressed by Mayor Sullivan. 12 Q. Was it a common rumor or discussion at the 13 time that Ms. Traficanti filed the stress claim 14 because she was anticipating she was going to be 15 terminated for other reasons with respect to her 16 employment with the City of Lawrence? 17 A. Yes. 18 Q. Now, did you have any professional 19 involvement with the handling of the Andrea 20 Traficanti claim after it was filed against the City 21 of Lawrence? 22 A. No. 23 Q. Did you have any discussions in March of 24 2007 with Attorney DiAdamo about the Traficanti</p>	<p style="text-align: right;">20</p> <p>1 2008, approximately June of 2008, Mr. DiAdamo was 2 terminated by the City of Lawrence with respect to 3 his representation of the Andrea Traficanti claim? 4 A. I'm aware of that, yes. 5 Q. Did you have any personal involvement with 6 the decision as to whether or not to terminate 7 Mr. DiAdamo from representing the city on the 8 Traficanti claim? 9 A. No. 10 Q. Do you have any information as to why the 11 City of Lawrence terminated Bill DiAdamo in June of 12 2008 with respect to the Andrea Traficanti 13 representation? 14 A. I'm going to assert privilege at this 15 point. 16 Q. Did you have -- these would be, I presume, 17 yes or no questions. I'm just trying to determine 18 what you may or may not know at this point. Did you 19 have any discussions with Mayor Michael Sullivan 20 concerning the termination by the City of Lawrence 21 of the employment of Mr. DiAdamo in June of 2008? 22 A. I'll answer yes that I had discussions. 23 Q. My follow-up question would be, can you 24 tell us about those discussions that you had with</p>
<p style="text-align: right;">19</p> <p>1 claim? 2 A. Not that I recall. 3 Q. Did you have any discussions, just as a 4 general matter of course, in March of 2007 or 2008 5 with Attorney DiAdamo about his handling of workers' 6 compensation claims? 7 A. Not that I recall. 8 Q. When the Traficanti claim was first filed, 9 was there ever any outreach to you by either 10 Mr. DiAdamo or anybody else within the City of 11 Lawrence to provide information concerning the 12 Traficanti claim? 13 A. No. 14 Q. Now, were you ever aware of a meeting in or 15 about May of 2007 between Bill DiAdamo, Tom 16 Schiavone and Michael Sweeney that occurred in City 17 Hall concerning the Traficanti claim? 18 A. No. 19 Q. Were you ever in attendance at any of the 20 Department of Industrial Accidents, the DIA 21 proceedings, including a conciliation or any of the 22 hearings concerning Ms. Traficanti? 23 A. No, sir. 24 Q. Do you understand that at some point in</p>	<p style="text-align: right;">21</p> <p>1 Mayor Michael Sullivan in June of 2008 concerning 2 the city's termination of Bill DiAdamo? 3 A. I'm going to object because I believe 4 that's privileged. 5 Q. Did you have any discussions with Frank 6 Bonet, the personnel director of the City of 7 Lawrence, in or about June of 2008 concerning the 8 termination of Bill DiAdamo? 9 A. Yes. 10 Q. Would you tell us the discussions you had 11 concerning the termination of Bill DiAdamo with 12 Frank Bonet in June of 2008. 13 A. I object as to that being privileged as 14 well. 15 Q. Did you have any discussions with Michael 16 Sweeney of the City of Lawrence concerning the 17 termination of William DiAdamo by the City of 18 Lawrence in June of 2008? 19 A. Yes. 20 Q. Can you tell us those discussions that you 21 had with him? 22 A. I object to that question as well as being 23 privileged information. 24 Q. Did you have any discussions with Thomas</p>

<p style="text-align: right;">22</p> <p>1 Schiavone in June of 2008 concerning the subject of 2 the termination by the City of Lawrence of Attorney 3 DiAdamo and his representation of Andrea Traficanti? 4 A. Yes. 5 Q. Would you tell us those discussions that 6 you had at that time. 7 A. I believe any discussion was held in the 8 city attorneys' office in front of the city 9 attorney. I will object on privilege as well. 10 Q. Did you have -- the city attorney I don't 11 think we established, but in this time frame of 2008 12 it would have been Charles Boddy; is that right? 13 A. That's correct. 14 Q. Did you have any discussions with Attorney 15 Boddy concerning the city's termination of Bill 16 DiAdamo in June of 2008? 17 A. Yes. 18 Q. Will you tell us those discussions. 19 A. I object to that as being privileged as 20 well. I'm also not certain of the time frame. I 21 certainly had discussions. 22 Q. With respect to the individuals we just 23 discussed, Mayor Michael Sullivan, Tom Schiavone, 24 Michael Sweeney, Charles Boddy, Frank Bonet, do you</p>	<p style="text-align: right;">24</p> <p>1 A. No. 2 Q. Let me ask a better question to make sure I 3 got the information. Were you ever involved in the 4 rehiring of Mr. DiAdamo or do you have any 5 information about the events that led to the City of 6 Lawrence rehiring him subsequent to June of 2008? 7 A. No. 8 Q. Did you ever have any personal observations 9 about the performance of Attorney DiAdamo in the 10 legal services he provided the City of Lawrence in 11 the Traficanti case? 12 A. No. 13 Q. Did you ever have any communications with 14 Mayor Michael Sullivan, Frank Bonet, Tom Schiavone, 15 Michael Sweeney, concerning the subject of the 16 performance of William DiAdamo in representing the 17 City of Lawrence in 2008 in the Traficanti case? 18 A. I object to that question as being 19 privileged as well. 20 Q. Was there ever any discussion that you 21 overheard or were a party to concerning anybody on 22 behalf of the City of Lawrence desiring to file a 23 so-called BBO complaint against Mr. DiAdamo for his 24 handling of the Traficanti case?</p>
<p style="text-align: right;">23</p> <p>1 recall whether or not you would have had any written 2 communications with these individuals via email or 3 letter or some other written communication 4 concerning the subject of Mr. DiAdamo's termination 5 by the City of Lawrence in June of 2008? 6 A. No. It's not that I don't recall. I 7 recall that I did not have any such communications. 8 Q. So any information that might exist 9 concerning the subject of Attorney DiAdamo's 10 termination by the City of Lawrence in or about June 11 of 2008 would be verbal discussions that essentially 12 are in your head and nowhere else? 13 A. That's correct. 14 Q. Were you involved with or have any 15 information concerning the amount of compensation 16 that Mr. DiAdamo earned from the City of Lawrence 17 for representing the city in workers' compensation 18 cases in 2008? 19 A. No, I don't believe so. 20 Q. It is my understanding, and I might have my 21 dates off, but were you at all involved in the 22 rehiring of Mr. DiAdamo by the City of Lawrence at 23 some point in, I believe it would have been the 2010 24 time frame?</p>	<p style="text-align: right;">25</p> <p>1 A. I'm sorry, would you repeat that again? 2 Q. Sure. Were you ever a party to any 3 discussions with any individuals who worked for the 4 City of Lawrence, including Mayor Michael Sullivan, 5 Frank Bonet or Michael Sweeney or Attorney Boddy, 6 who raised the issue of potentially filing a BBO 7 complaint with regard to Mr. DiAdamo's handling of 8 the Traficanti case? 9 A. I object to that as being privileged 10 information as well. 11 Q. I'm going to take a break. I think I'm 12 almost done. I do want to show you that order. 13 A. I would like to see it. 14 (Discussion off the record.) 15 Q. Mr. D'Agostino, do you have any documents 16 or texts or emails that you personally might be in 17 possession of that might concern the core issue in 18 this case of the termination by the City of Lawrence 19 of William DiAdamo's employment back in June of 20 2008? 21 A. No. 22 Q. This case largely concerns a radio 23 broadcast that occurred on WCAP and statements made 24 by Mr. Duggan. Are you familiar at all with that</p>

<p style="text-align: right;">26</p> <p>1 broadcast?</p> <p>2 A. Do you have a date on that?</p> <p>3 Q. I didn't tell you, but the date would be --</p> <p>4 the date of the broadcast was August 23, 2008, which</p> <p>5 was a Saturday.</p> <p>6 A. Particularly, I don't remember the date. I</p> <p>7 know that Mr. Duggan has spoken on his radio</p> <p>8 broadcast regarding the DiAdamo situation, the</p> <p>9 DiAdamo representation of Ms. Traficanti, of the</p> <p>10 city against Ms. Traficanti.</p> <p>11 Q. Did you ever hear the broadcast or any</p> <p>12 broadcast in which Mr. Duggan made statements about</p> <p>13 Mr. DiAdamo?</p> <p>14 A. I've heard some broadcasts, yes. I don't</p> <p>15 know if it was that particular one.</p> <p>16 Q. Do you recall whether you heard the</p> <p>17 broadcasts over the airwaves through a radio or did</p> <p>18 you hear the broadcasts by way of going to</p> <p>19 Mr. Duggan's website and using that mechanism to</p> <p>20 actually play a computer, digitized version of the</p> <p>21 broadcast?</p> <p>22 A. No. Any time I heard it it would have been</p> <p>23 a live broadcast over the radio airwaves.</p> <p>24 Q. After hearing any statements that</p>	<p style="text-align: right;">28</p> <p>1 A. No, I don't believe I had a different</p> <p>2 opinion.</p> <p>3 Q. What was your opinion before you heard the</p> <p>4 broadcast?</p> <p>5 A. Could you clarify that for me?</p> <p>6 Q. Yes. What was your opinion of Mr. William</p> <p>7 DiAdamo as an attorney before you heard the</p> <p>8 broadcast?</p> <p>9 A. As an attorney in general?</p> <p>10 Q. What was your opinion of Mr. DiAdamo as an</p> <p>11 attorney representing the City of Lawrence before</p> <p>12 you heard the broadcast?</p> <p>13 A. I had a fair opinion of Mr. DiAdamo.</p> <p>14 Q. Can you clarify that?</p> <p>15 A. I felt Mr. DiAdamo was a capable attorney.</p> <p>16 I'm not really in the business of criticizing</p> <p>17 attorneys because I make my own mistakes. I didn't</p> <p>18 think anything was dynamic or overzealous in his</p> <p>19 advocacy. I felt that sometimes he was politically</p> <p>20 influenced in his representation.</p> <p>21 Q. Politically influenced by whom?</p> <p>22 A. That I'm not sure of. I don't think I</p> <p>23 could specifically answer but just perhaps by the</p> <p>24 environment, the political environment in which he</p>
<p style="text-align: right;">27</p> <p>1 Mr. Duggan made on WCAP, did you think any</p> <p>2 differently of Attorney DiAdamo?</p> <p>3 A. I'm going to have to ask you to clarify</p> <p>4 that.</p> <p>5 Q. Sure. After hearing statements made by</p> <p>6 Mr. Duggan on any broadcast by WCAP, did you hold</p> <p>7 Attorney DiAdamo in any lesser regard because of</p> <p>8 those statements?</p> <p>9 A. I don't think my opinion changed of</p> <p>10 Mr. DiAdamo based upon those statements.</p> <p>11 Q. I have nothing further. I'm going to</p> <p>12 suspend my inquiry based on the privilege asserted.</p> <p>13 We'll need to go through the process. I appreciate</p> <p>14 the time. Thank you for coming in.</p> <p>15 MR. DICKISON: I'm not sure if you want</p> <p>16 to follow-up.</p> <p>17 MR. CARUSO: Peter Caruso for</p> <p>18 Mr. Duggan.</p> <p>19 EXAMINATION</p> <p>20 BY MR. CARUSO:</p> <p>21 Q. On the last question that was asked,</p> <p>22 whether you had any opinion of Mr. DiAdamo after you</p> <p>23 heard the broadcast, did you have a different</p> <p>24 opinion after you heard the broadcast?</p>	<p style="text-align: right;">29</p> <p>1 worked when he was representing the city.</p> <p>2 Q. How would that affect his representation,</p> <p>3 to the good or to the bad, in your opinion?</p> <p>4 A. To the bad, I believe.</p> <p>5 Q. Why?</p> <p>6 A. Well, there are always political factors</p> <p>7 when working in a municipality, be it as an employee</p> <p>8 or outside counsel. It is the pressure. Sometimes</p> <p>9 pressure could be brought to bear as to whether to</p> <p>10 continue. I felt perhaps he sometimes let that</p> <p>11 pressure influence his manner.</p> <p>12 Q. Pressure by whom? Pressure by the mayor?</p> <p>13 A. In some instances by the mayor and in some</p> <p>14 instances other considerations.</p> <p>15 Q. Pressure by department heads?</p> <p>16 A. By department heads, yes.</p> <p>17 A. Yes.</p> <p>18 Q. Pressure by Frank McCann?</p> <p>19 A. Yes.</p> <p>20 Q. Can you clarify that?</p> <p>21 A. I felt that Mr. McCann as a member of the</p> <p>22 Greater Lawrence Center would vote on Mr. DiAdamo's</p> <p>23 contract and his continued employment there. Again</p> <p>24 it is my opinion not based on any fact, I felt it</p>

<p style="text-align: right;">30</p> <p>1 may have influenced Mr. DiAdamo's handling of 2 specific issues that may adversely affect Mr. McCann 3 or his family. 4 Q. You mentioned earlier that you had seen 5 Mr. McCann enter the DiAdamo Law Offices; is that 6 correct? 7 A. Yes. 8 Q. How many times did you see that? 9 A. Excuse me, I don't know I could state how 10 many times; but certainly over a several-year period 11 it was often. 12 Q. More than ten? 13 A. Yes, I would say so. 14 Q. More than 50 over two years? 15 A. No, I don't know. I don't think I could 16 say that. I've seen them speaking outside as well. 17 Q. When you were at the wedding of Andrea 18 Traficanti and Frank McCann, do you recall if 19 Mr. Carmine DiAdamo was there also? 20 A. That I don't recall. I don't believe 21 Carmine was. I do believe Billy was. I could even 22 be mistaken on that. I'm not a hundred percent sure 23 on that. 24 Q. Was Larry Conlon at that wedding?</p>	<p style="text-align: right;">32</p> <p>1 City Hall about a possible complaint to the BBO 2 regarding William DiAdamo? 3 A. I'm sorry, would you repeat that? 4 Q. Did you speak to anyone outside of City 5 Hall regarding a possible complaint against William 6 DiAdamo from the BBO? 7 A. No, I did not. 8 Q. Are you familiar with the Jennifer 9 Pedallaro case? 10 A. Yes. 11 Q. Did you handle that case? 12 A. I believe I was hired -- the case was 13 ongoing at the time I was hired. I did participate 14 in observing the deposition of James McGravey in 15 that particular matter and did have some discussions 16 regarding settlement. 17 Q. Was there another attorney involved in that 18 case for the city? 19 A. I have to be honest, I don't recall. 20 Q. Was William DiAdamo involved with the 21 Jennifer Pedallaro case? 22 A. He may have been. I was coming in on the 23 tail end. Perhaps at some point my memory could be 24 refreshed.</p>
<p style="text-align: right;">31</p> <p>1 A. Yes. 2 Q. You spoke about a possible BBO complaint 3 that's been talked about here at the deposition. 4 Have you ever heard in City Hall about a possible 5 BBO complaint against William DiAdamo? 6 A. Are you speaking anecdotally? 7 Q. I am. 8 MR. DIADAMO: Objection. 9 A. I don't believe I heard specifically about 10 a BBO complaint anecdotally. 11 Q. Specifically in City Hall, did anyone talk 12 to you about a BBO complaint against William 13 DiAdamo? 14 A. I will assert the privilege. 15 Q. Just a yes or no, not -- 16 MR. DIADAMO: Objection. 17 A. I believe that even to respond in that 18 manner, Mr. Caruso, would also be a violation of the 19 privilege. 20 Q. Did you have any conversation about a 21 possible BBO complaint against Mr. DiAdamo outside 22 of City Hall? 23 A. No. 24 Q. Did you ever speak to anyone outside of</p>	<p style="text-align: right;">33</p> <p>1 Q. Are you familiar with the settlement in 2 that case? 3 A. Yes. 4 Q. Was that a sealed settlement? 5 A. I don't believe it was. I believe it was 6 even in the newspaper, in the Tribune, specifically. 7 Q. In the Tribune. So it is not your 8 recollection that the settlement was a confidential 9 matter? 10 A. No, it is not my recollection in that 11 regard. If I may further, as you discuss that and 12 as my memory can be refreshed, there were two 13 components to that. There was a civil action and 14 there was also a workers' comp component. I believe 15 Mr. DiAdamo was handling the workers' compensation 16 component of that. I was not privy to those and nor 17 would I discuss them because it would be privileged 18 at the time. 19 Q. The case has been settled in the Pedallaro 20 case; is that right? 21 A. That's correct. 22 Q. Do you know how the settlement amount was 23 disclosed to the public? 24 A. From the Eagle Tribune, I believe.</p>

<p style="text-align: right;">34</p> <p>1 Q. Do you know how the Eagle Tribune obtained 2 that amount? 3 A. Not with certainty, no. 4 Q. How about with uncertainty? 5 A. Not even with uncertainty. 6 Q. Do you know if that amount was leaked to 7 the Eagle Tribune? 8 A. I don't know that. 9 Q. Have you heard that that amount was leaked 10 to the Eagle Tribune? 11 A. I may have heard that, yes. 12 Q. Who did you hear it from? 13 A. I may have heard that from Attorney Boddy, 14 perhaps Mr. Bonet. 15 Q. And who did they say leaked it? 16 A. I don't recall that they said that. 17 Q. Do you know the person who might have 18 leaked it? 19 A. No, I don't. 20 Q. From that line of questioning, you believe 21 that the amount was leaked to the newspaper. 22 A. Yes, I do. 23 Q. Do you know if the amount was leaked to the 24 Valley Patriot newspaper?</p>	<p style="text-align: right;">36</p> <p>1 relationship of which, as I said before, I also had. 2 Q. What type of social relationship would 3 Mr. DiAdamo have with McCann? 4 A. I recall him at the wedding. If I'm 5 mistaken, I will stand to be corrected. I would say 6 that some of the conversation that I observed, some 7 of the discussions or interaction between Mr. McCann 8 and Mr. DiAdamo, William DiAdamo outside, even 9 Carmine DiAdamo, outside the office wasn't always 10 business-based. 11 Q. What were they talking about, that you 12 heard? 13 A. Talking about the politics in general in 14 the city, the political environment. 15 Q. Did they ever share a munchkin? 16 A. That I'm not sure. They were between their 17 office and Dunkin' Donuts. It was a possibility. 18 Q. Do you think the conversations outside the 19 office was more than even sharing a doughnut? 20 A. Could you clarify that? 21 Q. Yes. Some people just pass in the night 22 and they share a doughnut and say hi, how are you 23 and they go about. Was it more than just a sharing- 24 a-doughnut type of conversation that you saw them</p>
<p style="text-align: right;">35</p> <p>1 A. I don't know. I believe it may have been, 2 but I don't know that with personal knowledge or 3 certainty or uncertainty. 4 Q. Are you personally aware of any conflicts 5 or potential conflicts of interest regarding the 6 DiAdamos' representation of the city? 7 MR. DiADAMO: Objection. 8 A. Is that my opinion? 9 Q. Personally, do you know of any? 10 A. Yes. 11 Q. What are they? 12 A. Well, I believe that the, I believe 13 several -- again, it is my own view. I believe 14 there's a possible conflict of interest by the fact 15 that the DiAdamo Law Office, the DiAdamo family 16 rents the building to the Lawrence School 17 Department. I believe there's a possible conflict 18 of interest in the representation of the city in the 19 Traficanti case. 20 Q. Why? 21 A. Because of the relationship, the 22 employee/employer relationship of the Sanitary 23 District, Mr. McCann's involvement with the 24 DiAdamos, as well as the social or personal</p>	<p style="text-align: right;">37</p> <p>1 having outside of City Hall? 2 MR. DiADAMO: Objection. 3 A. It was certainly more than passing, is my 4 observation. I may have even sometimes 5 participated. 6 Q. What did the three of you talk about? 7 A. The political environment. 8 Q. What about the political environment? 9 A. It was always pretty caustic, tense. 10 Q. Would you describe that Carmine DiAdamo was 11 politically connected? 12 A. Yes. 13 Q. Can you describe that? 14 A. Back to the Kevin Sullivan administration 15 in the early '90s, Carmine was very involved. 16 Q. How? 17 A. He would assist -- I'm not sure, but I 18 think they did the workers' comp back then as well, 19 representation of the city. But certainly he was an 20 advisor of Kevin Sullivan. Kevin Sullivan was mayor 21 at the time. He would seek Carmine's counsel and 22 advice. It appeared to me that Carmine had great 23 influence in Boston with perhaps the legislature or 24 other high-power political figures. I believe he's</p>

<p style="text-align: right;">38</p> <p>1 also been on some judicial nominating committees in 2 the area. He always seemed to be involved with the 3 paper mill site and what went on there and helping 4 the city. I believe he was very instrumental in 5 assisting the city with getting help with that site 6 and funds and Superfunds. 7 Q. Was he politically involved in the campaign 8 of Mr. Sullivan? 9 A. I believe so. 10 Q. How would he be involved in the political 11 campaign of Kevin Sullivan? 12 A. This is a 20-something-year-old memory. I 13 believe that he contributed to the campaign 14 financially. He certainly offered advice. Kevin 15 Sullivan would meet with Carmine DiAdamo with great 16 frequency. I would speak with Carmine on many 17 occasions. So we discussed the political events and 18 things facing the city. 19 Q. Other than Kevin Sullivan, who else would 20 Mr. DiAdamo be politically connected to? 21 A. He was definitely connected to 22 Mr. Lantigua. 23 Q. How was he connected to Mr. Lantigua? 24 A. He was hired by Mr. Lantigua to represent</p>	<p style="text-align: right;">40</p> <p>1 particular one. 2 Q. Why do you think that's a conflict? 3 A. It is a two-master situation. It is a 4 personal representation. At the time representing 5 the City of Lawrence, there could be a conflict 6 between Mr. Lantigua's particular perspective and 7 the best interests of the city in his 8 representation. 9 Q. Other than former Mayor Kevin Sullivan and 10 former Mayor Lantigua, were there any other 11 political connections that the DiAdamos had in the 12 city that you know of? 13 A. Yes. They are very well connected, from 14 what I can perceive, in a friendly matter and 15 political manner with Attorney Paul Iannuccillo, the 16 Register of Deeds. 17 Q. Can you explain that? 18 A. Mr. Iannuccillo commonly sought 19 Mr. DiAdamo's advice, also Mr. William DiAdamo. 20 They have a personal relationship. I'm not sure 21 about professional. I'm not sure if they ever 22 represented him. I'm sorry, yes, they did, in a 23 zoning dispute at Salisbury Beach, Massachusetts. 24 The Iannuccillo family, there was some infighting</p>
<p style="text-align: right;">39</p> <p>1 the city. In full enclosure, Mr. DiAdamo is 2 currently representing, or was and still is, as far 3 as I know, representing the City of Lawrence in a 4 case that I have pending against the City of 5 Lawrence in a lawsuit that I've filed. 6 Q. Did Mr. DiAdamo ever represent Mr. Lantigua 7 personally? 8 A. Yes. 9 Q. For what purpose? 10 A. There was an individual that was I believe 11 harassing, or Mr. Lantigua perceived he was stalking 12 him. I don't recall a hundred percent, but I think 13 the individual took out a restraining order against 14 Mr. Lantigua or vice versa. Mr. DiAdamo appeared in 15 court with Mr. Lantigua. It was reported in the 16 Lawrence Eagle Tribune. As I recall, Mr. DiAdamo 17 was asked at that time whether he was representing 18 the mayor personally or on behalf of the city, and 19 Mr. DiAdamo refused to respond. 20 Q. Which Mr. DiAdamo are you referring to? 21 A. Mr. William DiAdamo. 22 Q. William DiAdamo. 23 A. I also believe that to be a conflict. You 24 asked about conflicts earlier. I didn't say that</p>	<p style="text-align: right;">41</p> <p>1 within the Iannuccillo family and Carmine DiAdamo I 2 believe represented Paul Iannuccillo against the 3 uncle, I think it was. 4 Q. Was that at the time that Mr. Iannuccillo 5 was a state representative? 6 A. Yes, it was. 7 Q. Do the DiAdamos still represent, to your 8 knowledge, Paul Iannuccillo? 9 A. I don't know if they represent him but they 10 are quite friendly with him. 11 Q. How do you know that? 12 A. They were involved with his campaign for 13 the Register of Deeds. 14 Q. How were they involved? 15 A. They offered advice, had conversations. It 16 was told to me, I didn't witness this myself, but 17 Mr. Iannuccillo met with Mr. DiAdamo and 18 Mr. Lantigua on a bench outside Lawrence City Hall 19 across from the superior court during that campaign 20 and were discussing political guidance and strategy. 21 Q. Do you know if the DiAdamos see 22 Mr. Iannuccillo now today, by today I mean in the 23 recent past? 24 A. I believe they do. I've spoken -- I'm very</p>

<p style="text-align: right;">42</p> <p>1 friendly with Mr. Iannuccillo as well. I've spoken 2 to him. I have not sensed any disruption in their 3 relationship. 4 Q. Any other political figures in Greater 5 Lawrence that Mr. DiAdamo may be friendly with? 6 A. Mr. William DiAdamo? 7 Q. Carmine DiAdamo. 8 A. Offhand, I can't think of any. 9 Q. Do you know if the city ever paid William 10 DiAdamo for representing Mayor Lantigua, the 11 personal incident in the district court? 12 A. No, I don't. I also witnessed Mr. Lantigua 13 going into Mr. DiAdamo's office with great frequency 14 during his term in office and while I was still 15 there. 16 Q. Have you ever been given directions or 17 orders from Mayor Lantigua to do something that you 18 thought was unethical? 19 MS. RUANO: I'm going to direct you not 20 to answer that if it involves any communications 21 protected by attorney-client privilege. 22 A. I'll assert the privilege on that. I'll 23 let my fate speak for itself. 24 Q. Who was Larry Conlon?</p>	<p style="text-align: right;">44</p> <p>1 MR. CARUSO: Why the objection? 2 MS. RUANO: I don't believe that's his 3 testimony, that he ever heard it. 4 Q. Did you ever hear the radio broadcast 5 that's the subject of this suit? 6 A. I've heard the suit discussed in a radio 7 broadcast by Mr. Duggan. 8 Q. But you didn't hear it at the time it was 9 broadcast. 10 A. I believe I heard it live on the radio, on 11 the air as it was discussed, mentioned. 12 Q. I'm going to read to you a portion of that 13 radio broadcast that's one of the crux of the 14 matters in this case. This is the quote. This is 15 by Mr. Duggan. 16 "I've got information now from the City 17 of Lawrence, from a number of other sources in the 18 City of Lawrence that Attorney DiAdamo, who was 19 representing the City of Lawrence during the Andrea 20 Traficanti disability case, is being accused of 21 throwing the case and has been fired by the City of 22 Lawrence because he's being accused of throwing the 23 case." 24 Have you heard that quote before?</p>
<p style="text-align: right;">43</p> <p>1 A. Larry Conlon is -- I think he lives back in 2 the city again now. He was born in Lawrence. The 3 family lives in Lawrence. They own Common Paper 4 Products; the family has owned that for several 5 generations now, at least starting with Larry's 6 father or grandfather, possibly. 7 Q. Do you know of any connection between the 8 DiAdamos and Mr. Conlon? 9 A. I think he's told me that they have 10 represented him. I know he has a high, high regard 11 for Carmine DiAdamo, as do I. They are also, they 12 may have even gone golfing together, social friends 13 as well. Mr. Conlon was at the wedding of Frank and 14 Andrea; is that correct? 15 A. Yes. If I recall, he may have given her 16 away, so to speak. Her father was deceased. To my 17 knowledge now, they don't speak. 18 Q. Why? 19 A. I don't know. I just heard they had a 20 falling out. If you mention it to Larry Conlon, he 21 won't even discuss it. 22 Q. When was the first time you heard about the 23 radio broadcast that initiated this suit? 24 MS. RUANO: Objection.</p>	<p style="text-align: right;">45</p> <p>1 A. Yes. 2 Q. Have you heard this quote discussed outside 3 of City Hall? 4 A. I heard Mr. Duggan discuss it. I need 5 further clarification of outside City Hall. 6 Q. Have you ever heard anyone talking about 7 this quote before Mr. Duggan said it on the radio? 8 MR. DIADAMO: Objection. 9 MS. RUANO: If it involves any 10 attorney-client communication, I'm going to direct 11 you not to answer. 12 A. I'm scouring to see if there's anything 13 outside of attorney-client privilege. I'm not sure 14 on the date. It will be difficult to respond as to 15 whether I heard it before or outside the privilege. 16 Q. The date of the broadcast was August of 17 2008. So prior to August 2008, did you ever hear 18 anyone say that Mr. DiAdamo is being accused of 19 throwing the Andrea Traficanti case? 20 A. I'm going to assert the privilege in this 21 regard and refuse to answer. 22 Q. Outside of your job as the attorney for the 23 City of Lawrence, have you ever heard of anyone talk 24 about Mr. DiAdamo being accused of throwing the</p>

<p style="text-align: right;">46</p> <p>1 Andrea Traficanti case?</p> <p>2 A. That's a little difficult to respond to,</p> <p>3 Mr. Caruso, because there is no real outside of my</p> <p>4 role. My role is 24/7, 365 days a year at the time</p> <p>5 as an attorney for the City of Lawrence.</p> <p>6 Q. Has anyone ever told you that William</p> <p>7 DiAdamo was accused of throwing the Andrea</p> <p>8 Traficanti case?</p> <p>9 A. I'm going to object to that as being</p> <p>10 privileged information.</p> <p>11 Q. Have you ever heard of someone else stating</p> <p>12 that William DiAdamo is being accused of throwing</p> <p>13 the Andrea Traficanti case?</p> <p>14 A. Could you clarify that.</p> <p>15 Q. Have you ever heard that Frank Bonet has</p> <p>16 told other people that Mr. DiAdamo was being accused</p> <p>17 of throwing the Andrea Traficanti case?</p> <p>18 A. Yes.</p> <p>19 Q. When did you hear that?</p> <p>20 A. Mr. Bonet stated it once in the elevator at</p> <p>21 City Hall in front of third parties.</p> <p>22 Q. How many people were in the elevator?</p> <p>23 A. I think there were two others.</p> <p>24 Q. Any discussion at that time?</p>	<p style="text-align: right;">48</p> <p>1 Q. How about a non-city employee ever making</p> <p>2 the statement that William DiAdamo is being accused</p> <p>3 of throwing the Andrea Traficanti case?</p> <p>4 A. Yes.</p> <p>5 Q. Who?</p> <p>6 A. Mr. Duggan. And I believe his girlfriend</p> <p>7 Paula Porten, his girlfriend at the time.</p> <p>8 Q. What did Paula say?</p> <p>9 A. She, to my knowledge, practiced at the</p> <p>10 Industrial Accident Board. She basically made that</p> <p>11 statement to me, I believe it was in the coffee</p> <p>12 shop, Dunkin' Donuts on Essex Street.</p> <p>13 Q. Did she tell you where she heard that</p> <p>14 statement?</p> <p>15 A. No.</p> <p>16 Q. What else did she say about the Andrea</p> <p>17 Traficanti case in that coffee shop?</p> <p>18 A. She said she had discussions with</p> <p>19 Mr. DiAdamo about the case.</p> <p>20 Q. What were those discussions?</p> <p>21 A. What were they?</p> <p>22 Q. What were they?</p> <p>23 A. She didn't go into specifics. She said she</p> <p>24 had discussions with him at the DIA.</p>
<p style="text-align: right;">47</p> <p>1 A. No. Mr. Bonet did most of the talking.</p> <p>2 Q. What did he say?</p> <p>3 A. He discussed this matter. He used those</p> <p>4 terms that you have used. And he said, I think it</p> <p>5 was in front of Ruth McGrath, possibly Diane Armano,</p> <p>6 was in the elevator at the time.</p> <p>7 Q. Who was Ruth McGrath?</p> <p>8 A. Ruth McGrath worked for the city. She was</p> <p>9 a clerk, I guess, receptionist. She was in the</p> <p>10 finance office and then she went to the Water</p> <p>11 Department.</p> <p>12 Q. How did she respond when she heard this?</p> <p>13 Did she respond?</p> <p>14 A. She may have giggled or, really? Municipal</p> <p>15 employees enjoy that type of gossip.</p> <p>16 Q. Who is Mrs. Armano?</p> <p>17 A. She works in the comptroller's office. I</p> <p>18 believe she's still an employee of the city.</p> <p>19 Q. Other than Mr. Bonet stating that</p> <p>20 Mr. DiAdamo was being accused of throwing the Andrea</p> <p>21 Traficanti case, did you hear anyone else make that</p> <p>22 statement, other than Frank?</p> <p>23 A. I'm going to object to that question as</p> <p>24 well and assert the privilege.</p>	<p style="text-align: right;">49</p> <p>1 Q. You were there for more than a couple of</p> <p>2 minutes. What else did she disclose to you about</p> <p>3 those discussions?</p> <p>4 A. She said she had seen the file, seen the</p> <p>5 documents, seen the case.</p> <p>6 Q. Who showed her the case?</p> <p>7 A. Mr. DiAdamo.</p> <p>8 Q. When he showed her the case, what did he</p> <p>9 tell her?</p> <p>10 A. That I don't know.</p> <p>11 Q. When she told you that he had showed her</p> <p>12 the case, what else did she say?</p> <p>13 A. She said we were discussing the case. She</p> <p>14 discussed about a possible conflict or what she felt</p> <p>15 was a possible conflict with his relationship with</p> <p>16 Andrea Traficanti and with Frank McCann. We may</p> <p>17 have had some conversation about that, she and I.</p> <p>18 That was when she made the statement.</p> <p>19 Q. Did she tell you what Bill DiAdamo said to</p> <p>20 her?</p> <p>21 A. No. She just said they had discussed the</p> <p>22 case.</p> <p>23 Q. Do you believe that Attorney William</p> <p>24 DiAdamo threw the Andrea Traficanti case?</p>

<p style="text-align: right;">50</p> <p>1 A. I don't know if I would use those terms.</p> <p>2 Q. What terms would you use?</p> <p>3 A. He may have not have been as zealous an</p> <p>4 advocate for the City of Lawrence as he could have</p> <p>5 been or was capable of with regard to that case.</p> <p>6 Q. What do you base that statement on?</p> <p>7 A. The outcome and the personal relationship</p> <p>8 that he had and the professional relationship he</p> <p>9 also had and possible political influence and</p> <p>10 professional influence he may have had with</p> <p>11 Mr. McCann's role in the Sanitary Division.</p> <p>12 Q. How many people today share your opinion?</p> <p>13 A. I would say more than two. I would say</p> <p>14 several.</p> <p>15 Q. More than ten?</p> <p>16 A. Perhaps.</p> <p>17 Q. Can you name just one of those people?</p> <p>18 A. Tom Duggan.</p> <p>19 Q. Besides Tom Duggan and Paula Porten, can</p> <p>20 you name a third person?</p> <p>21 A. I'll assert the privilege at this juncture.</p> <p>22 Q. Could you name a person who is outside of</p> <p>23 City Hall?</p> <p>24 A. I don't know about outside of City Hall.</p>	<p style="text-align: right;">52</p> <p>1 MR. DICKISON: Which story are we</p> <p>2 talking about?</p> <p>3 MR. CARUSO: The Pedallaro story.</p> <p>4 A. I don't believe so, because Mr. Duggan was</p> <p>5 pretty covetous of his informants. So I don't think</p> <p>6 so.</p> <p>7 Q. In the story, in the Pedallaro story there</p> <p>8 was a quote that said that the information was given</p> <p>9 by, quote, "a City Hall insider."</p> <p>10 Do you remember that?</p> <p>11 A. Yes.</p> <p>12 Q. Who do you believe the City Hall insider</p> <p>13 was?</p> <p>14 A. I would only be speculating to respond.</p> <p>15 Q. I'll take your speculation.</p> <p>16 MR. DiADAMO: Objection.</p> <p>17 MS. RUANO: I'm going to object to the</p> <p>18 form.</p> <p>19 Q. You can still answer the question.</p> <p>20 A. Anecdotally, Mr. Bonet was considered to be</p> <p>21 quite the informant for Mr. Duggan and for the Eagle</p> <p>22 Tribune.</p> <p>23 Q. Anyone else?</p> <p>24 A. No, as I recall.</p>
<p style="text-align: right;">51</p> <p>1 Mrs. McGrath doesn't work at City Hall any longer.</p> <p>2 She shared that opinion, again perhaps based upon</p> <p>3 what she heard from Mr. Bonet.</p> <p>4 Q. If you were relieved of what you perceive</p> <p>5 to be attorney-client privilege with the City of</p> <p>6 Lawrence, would you be able to explain further the</p> <p>7 quote that Mr. DiAdamo is being accused of throwing</p> <p>8 the case regarding Andrea Traficanti?</p> <p>9 A. I'll elaborate on that if I'm relieved of</p> <p>10 that privilege. I believe my answer is privileged</p> <p>11 even in that regard.</p> <p>12 Q. Do you remember Mr. Duggan talking to you</p> <p>13 about the Pedallaro story that Mr. Duggan wrote</p> <p>14 about in his newspaper, the Valley Patriot?</p> <p>15 A. Yes.</p> <p>16 Q. Who gave you the information about the</p> <p>17 Pedallaro story? I'll help you. Was it Paula</p> <p>18 Porten?</p> <p>19 A. It may have been. I don't totally recall.</p> <p>20 Q. Was it Attorney William DiAdamo?</p> <p>21 A. Who gave me the information? No.</p> <p>22 Q. Did you have any conversations with anyone</p> <p>23 about who might have been the, quote, "City Hall</p> <p>24 insider" quoted in Mr. Duggan's story?</p>	<p style="text-align: right;">53</p> <p>1 Q. Did you ever hear Attorney Charles Boddy</p> <p>2 say that a BBO complaint should be filed against the</p> <p>3 DiAdamos for being the source or leak in the</p> <p>4 Pedallaro story?</p> <p>5 A. I'm going to assert the privilege and</p> <p>6 object to that question.</p> <p>7 Q. Did you ever hear such conversations,</p> <p>8 regarding the BBO complaint to be filed against the</p> <p>9 DiAdamos, in front of third parties?</p> <p>10 A. No.</p> <p>11 Q. Did you ever hear Attorney Charles Boddy</p> <p>12 complain to third parties that the DiAdamos had</p> <p>13 conflicts in the Andrea Traficanti case?</p> <p>14 A. No.</p> <p>15 Q. Do you remember Andrea Traficanti catering</p> <p>16 a City Hall meeting in December of 2008, this is</p> <p>17 after she had already claimed in court that she</p> <p>18 couldn't go into City Hall without having panic</p> <p>19 attacks?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember Frank Bonet being outraged</p> <p>22 about this?</p> <p>23 A. Yes.</p> <p>24 Q. What did Mr. Bonet say to you or say?</p>

<p style="text-align: right;">54</p> <p>1 A. As I recall, he told anyone who would 2 listen that it was outrageous that she had a claim 3 against the city, that she was stressed by the 4 environment, stressed by the mayor, that she was 5 what he felt was at the behest of Patrick 6 Blanchette, who she was very friendly with, putting 7 on this catering, whatever you want to call it, 8 bringing cookies for the new city council members, 9 which Mr. Blanchette used to do publicly each time 10 there was a new election. 11 Q. In the middle of this outburst, did he say 12 that the city should not be representing, that a 13 particular attorney should not be representing the 14 city in the Andrea Traficanti case? 15 A. Could you repeat that? 16 Q. In the middle of his outburst, his outrage, 17 did he ever say that Attorney DiAdamo should not be 18 handling this case? 19 A. I don't recall him saying that at the time 20 or any particular time. 21 Q. You anticipated my question. 22 A. I did. I saw you were in a hurry earlier, 23 so I figured you would appreciate it. 24 Q. I appreciate it.</p>	<p style="text-align: right;">56</p> <p>1 Q. Did he agree with the broadcast? 2 A. I don't recall that he offered any opinion 3 that he agreed or disagreed. Like I said, until it 4 was his turn, he was quite excited about political 5 scuttlebutt and the gossip and people being 6 persecuted or whatever. 7 Q. Was this gossip bandied around City Hall 8 before it was heard on the radio by Mr. Duggan? 9 A. That I can't recall. I can't recall with 10 specificity the broadcast. 11 Q. The date was August of 2008. Before the 12 broadcast, were people talking about the DiAdamos 13 being accused of throwing the case? 14 A. I really couldn't respond affirmatively or 15 negatively in that regard. I couldn't be that 16 specific. Certainly after the fact, it may have 17 been prompted by that broadcast. 18 Q. Let's take a two-minute break to see if I 19 have any questions. 20 (A recess was taken.) 21 Q. You mentioned earlier that you believe that 22 the DiAdamos had some conflict of interests 23 representing the city because of the boards they 24 represented. One of the boards you didn't mention</p>
<p style="text-align: right;">55</p> <p>1 Did you ever get a phone call from 2 either Carmine or Billy DiAdamo about the Tom Duggan 3 broadcast? 4 A. No. 5 Q. Do you know of anyone in City Hall who 6 actually heard the radio broadcast on August 23 7 regarding the Andrea Traficanti case? 8 A. I believe David Camasso may have. 9 Q. Did you talk to him about the case? Excuse 10 me, did you talk to him about the broadcast? 11 A. He spoke to me about it. David was an avid 12 listener. David knew everything. If it was on 13 WCCN, if it was in the Eagle Tribune, in the Valley 14 Patriot, if it was on his show, David would come in 15 to report. 16 Q. What did David say about the broadcast to 17 you? 18 A. Just basically: Did you hear that, 19 Duggan's broadcast on Saturday? 20 Q. Was Mr. Camasso surprised about the 21 broadcast? 22 A. I don't know if he was surprised. He was 23 always excited about political gossip. That's what 24 he viewed it as.</p>	<p style="text-align: right;">57</p> <p>1 was the Workforce Investment Board, otherwise known 2 as the WIB. Were you aware that the DiAdamos were 3 friendly with that board? 4 A. Yes. 5 Q. In what manner? 6 A. If I recall -- I don't know both, but 7 certainly William had represented -- I think Mayor 8 Michael Sullivan may have hired him to represent -- 9 I don't know if he sat on the board or represented 10 the board. I know he was involved with the board. 11 I couldn't specifically say what his role was. 12 Q. Who else was on that board? 13 A. I really don't recall. 14 Q. Was Frank McCann on that board? 15 A. I don't know. 16 Q. You were the DEP director, you should know 17 that. DPW. 18 A. That wasn't even a Workforce Investment 19 Board back then. I go back to the cobweb days. 20 Q. Have you ever heard Andrea Traficanti say 21 that they were going to win the workers' 22 compensation case because DiAdamo was representing 23 the city? 24 A. No.</p>

<p style="text-align: right;">58</p> <p>1 Q. Are you familiar with the phrase "take it 2 to the bank"?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember Andrea Traficanti saying in 5 front of you and others that she was a hundred 6 percent sure that she would win because, quote: 7 "Look who we are up against. We will win. You can 8 take it to the bank"?</p> <p>9 A. No, that I don't recall.</p> <p>10 Q. The gist of what I just said, have you 11 heard that before?</p> <p>12 MR. DiADAMO: Objection.</p> <p>13 A. I've heard the phrase "take it to the 14 bank."</p> <p>15 Q. Was it said by Andrea Traficanti?</p> <p>16 A. The phrase that I recall when you say did 17 you hear "take it to the bank," it originated with 18 Kevin Sullivan way back and was further perpetuated 19 by his brother Michael when he was in office. And 20 you could say there was an anecdote about it that 21 once they said that, you could forget about it.</p> <p>22 Q. But nothing related to the Andrea 23 Traficanti case?</p> <p>24 A. Not that I can recall.</p>	<p style="text-align: right;">60</p> <p>1 Q. In his position in the city?</p> <p>2 MR. DiADAMO: Objection.</p> <p>3 A. I really don't know.</p> <p>4 Q. Wasn't it common knowledge that William 5 DiAdamo was fired by Mayor Sullivan because of the 6 Andrea Traficanti case?</p> <p>7 A. Could you clarify that?</p> <p>8 Q. I'll repeat the question. Wasn't it common 9 knowledge that the DiAdamos were fired by Mayor 10 Sullivan because of the Andrea Traficanti case?</p> <p>11 MR. DiADAMO: Objection.</p> <p>12 A. I don't know if it was common knowledge. 13 You would have to define that term for me to 14 respond.</p> <p>15 Q. Did you hear other people say that the 16 DiAdamos were fired by Mayor Sullivan because of the 17 Andrea Traficanti case?</p> <p>18 MR. DiADAMO: Objection.</p> <p>19 A. No.</p> <p>20 Q. When you say it wasn't common knowledge, 21 was it uncommon knowledge?</p> <p>22 A. I'm going to say that anything else in that 23 regard would be privileged.</p> <p>24 Q. Isn't it true that the DiAdamos were fired</p>
<p style="text-align: right;">59</p> <p>1 Q. Do you know who made the decision not to 2 renew the DiAdamo contract as the attorney 3 representing the city in workers' compensation 4 cases?</p> <p>5 A. I don't know for a fact.</p> <p>6 Q. Were you involved in that decision?</p> <p>7 A. No.</p> <p>8 Q. Do you know who would have been involved in 9 the decision not to renew the DiAdamo contract as 10 attorneys for workers' compensation cases 11 representing the city?</p> <p>12 A. Under state statute, the mayor or the chief 13 executive officer of the city, the manager or 14 whatever, has that authority for any contract, has 15 the sole authority to enter into any contracts or to 16 make these decisions.</p> <p>17 Q. Who was the mayor at the time?</p> <p>18 A. Michael J. Sullivan.</p> <p>19 Q. Do you know if Frank Bonet was involved in 20 that decision?</p> <p>21 A. I don't know.</p> <p>22 Q. Would he have been involved in that 23 decision?</p> <p>24 MR. DiADAMO: Objection.</p>	<p style="text-align: right;">61</p> <p>1 by the city prior to the broadcast of August 23, 2 2008?</p> <p>3 A. I don't recall when they were terminated.</p> <p>4 Q. Do you believe that they were terminated 5 because of their representation in the Andrea 6 Traficanti case?</p> <p>7 A. My personal belief, yes.</p> <p>8 Q. Why?</p> <p>9 A. I'm going to assert privilege to respond to 10 that.</p> <p>11 Q. If that privilege was waived, would you 12 then feel comfortable in answering that question?</p> <p>13 A. If the privilege is waived, I'll respond 14 truthfully to any question I'm asked.</p> <p>15 Q. Have you requested the city to waive any 16 privilege that they may have regarding your 17 testimony in this case?</p> <p>18 A. Not until the commencement of this 19 deposition.</p> <p>20 Q. Will you, in fact, request the city to 21 waive any privilege that they may have to your 22 testimony in this case?</p> <p>23 A. I didn't intend to prior to today.</p> <p>24 Q. After today, will you ask the city?</p>

<p style="text-align: right;">62</p> <p>1 A. I guess, Mr. Caruso, if that means I'm 2 going to be called back, then at that point, yes, I 3 will and act accordingly. 4 Q. I think you may, only because the judge has 5 asked us to move forward with this proceeding and 6 then if we believe there should be some reasons why 7 the court should act, then we should go back and ask 8 him. 9 MR. DICKISON: I don't think it is his 10 problem, Peter. I think it is our problem. We've 11 got to fight this before the court and resolve these 12 issues. It is our responsibility to do that, not 13 the witness's. 14 MR. CARUSO: Would it be easier if the 15 witness did obtain a waiver from the city? 16 MR. DICKISON: Obviously it would be 17 easier. But he's got no documents. He is just a 18 witness answering questions. I don't think we need 19 to put the onus on him and have this debate and 20 detain him any longer. I think it is something we 21 should bear the responsibility for. 22 MR. CARUSO: I have no further 23 questions. 24 EXAMINATION</p>	<p style="text-align: right;">64</p> <p>1 As I've said, I've known the family for 2 years. I said hello to Carmine as I was leaving. 3 And Carmine made the comment: I'm going to see if I 4 can -- I'm trying to think how he phrased this -- 5 basically, stick it to Billy Manzi. I can't 6 remember the context. I don't believe he was in 7 agreement with what Chief Solomon was seeking at the 8 time, but that basically he was going to be able to 9 satisfy all parties and he was going to stick it to 10 Billy Manzi. He had an animus toward Mr. Manzi. I 11 didn't pursue the root of it or genesis or anything 12 of that nature. 13 Q. Did you ever talk to Mr. Manzi about Bill 14 DiAdamo's friendship with Frank McCann and any 15 potential conflict of interest there? 16 A. No. I don't believe we ever discussed 17 that. 18 Q. I have no further questions. 19 MR. DiADAMO: Anyone else before I go? 20 EXAMINATION 21 BY MR. DiADAMO: 22 Q. Mr. D'Agostino, what did you do, if 23 anything, to prepare for today's deposition? 24 A. I had a conversation with Attorney Ruano.</p>
<p style="text-align: right;">63</p> <p>1 BY MS. COLL: 2 Q. I'll make this quick. I am Joanna Coll. I 3 represent Mr. William Manzi. Do you know who 4 Mr. Manzi is? 5 A. William Manzi, yes, I do, very well. 6 Q. Never mind. Have you ever spoken to 7 Mr. Manzi about Mr. DiAdamo? 8 A. No. 9 Q. Just to make that clearer, have you ever 10 spoken to Mr. Manzi about Mr. DiAdamo's alleged 11 compensation from the board, the GLSD? 12 A. I don't know if we spoke specifically about 13 the compensation. We have had conversations about 14 an animus that has developed between the DiAdamos 15 and Mr. Manzi. 16 Q. Can you tell me what that animus is? 17 A. I'm not a hundred percent sure what's at 18 the root of it or what precipitated it. I know I 19 was in court at a hearing one time in superior court 20 where Mr. William DiAdamo's father, Carmine, 21 appeared not on behalf of anyone but as an observer. 22 He was by the court door. And there was a hearing 23 going on, I think it was regarding Chief Solomon 24 from Methuen.</p>	<p style="text-align: right;">65</p> <p>1 Q. Anyone else? 2 A. No. 3 Q. Did you receive any documents? 4 A. No. 5 Q. Did you speak to Mr. Duggan? 6 A. I've spoken to Mr. Duggan about this case 7 and the situation several times. 8 Q. Okay. How many times have you spoken to 9 Mr. Duggan? 10 A. Since? Could you clarify that? 11 Q. How many times have you spoken to 12 Mr. Duggan about this case? 13 A. Over the course of the last seven years, 14 maybe ten. 15 Q. Okay. When was the last time you spoke to 16 him about it? 17 A. When he texted me and asked if I was on my 18 way here. 19 Q. Okay. When before that? 20 A. I think after I was served notice of the 21 deposition. 22 Q. Did you initiate that contact? 23 A. No. 24 Q. What happened?</p>

<p style="text-align: right;">66</p> <p>1 A. I think it was through a message on 2 Facebook. 3 Q. And what was the message on Facebook? 4 A. I can't recall. Something to the effect 5 that he felt that I was going to be some type of 6 star witness here or something of that nature. 7 Q. Can you recall for me exactly, as best you 8 can, what it said? Was it an instant message on 9 Facebook, a posting or what? 10 A. It was a posting that I would be deposed. 11 And there was a copy of the depo notice posted on 12 Facebook. I can't recall if there was a personal 13 message to me about being deposed. We did have a 14 subsequent telephone conversation. 15 Q. When was that? 16 A. Sometime within the last three, four weeks, 17 prior to the first noticing. 18 Q. Let me make sure I get this right. You get 19 a text message today from him; is that correct? 20 A. That's correct. 21 Q. Prior to that, there was just a posting on 22 Facebook? 23 A. Yes. 24 Q. And was that a posting on your wall? Was</p>	<p style="text-align: right;">68</p> <p>1 Q. What's your cell phone number? 2 A. 978-994-1173. 3 Q. How long have you had that cell phone 4 number? 5 A. I've had that number a long time. 6 Q. Do you know who your cell phone provider 7 is? 8 A. Right now it is Virgin. 9 Q. Do you know who it was before Virgin, if 10 anyone? 11 A. Prior to that it was Metro PCS. 12 Q. And how long have you had -- how far back 13 does that take us? 14 A. Virgin would take you to the conversations 15 that I have had discussed. 16 Q. You indicated that you had conversations 17 with Mr. Duggan over the last seven years. Tell me 18 all the cell phone providers you have had over the 19 last seven years. 20 A. Verizon was prior to Metro. 21 Q. Anyone else? 22 A. No. 23 Q. How about your home phone? 24 A. My home phone is currently Comcast.</p>
<p style="text-align: right;">67</p> <p>1 it an instant message? Was it a posting on the 2 Valley Patriot Facebook page, if you know? 3 A. It came in the news feed. 4 Q. And between the news feed and the text that 5 you got today, have you spoken to Mr. Duggan at all? 6 A. Yes. 7 Q. When was that? 8 A. I can't recall the date, but sometime 9 within again, as I said, the last three weeks. 10 Q. Okay. Relate to me the substance of that 11 conversation. 12 A. I said to him that I don't know, frankly, 13 how much I could bring to this party because I was 14 not privy to what went on with Andrea Traficanti's 15 case, I had nothing to do with it. And I probably 16 did not have as much personal knowledge that he may 17 have perceived that I did; and what I did have would 18 be privileged, if any, and that may be the majority 19 of my responses other than comments made in front of 20 third parties. 21 Q. Did you initiate that telephone call? 22 A. No, he may have. 23 Q. Did he call you on your cell phone? 24 A. Yes.</p>	<p style="text-align: right;">69</p> <p>1 Q. Have you ever spoken to Mr. Duggan on your 2 home phone? 3 A. No. 4 Q. Obviously you have your own Facebook page; 5 is that correct? 6 A. Yes. 7 Q. Under what name is that Facebook page? 8 A. My name. 9 Q. Richard D'Agostino? 10 A. Yes. 11 Q. Is it Richard J. D'Agostino? 12 A. I'm not sure. It may be. It may just be 13 Richard D'Agostino. 14 Q. So the conversation that we were talking 15 about a moment ago, you were on your cell phone. 16 What did Mr. Duggan say to you? 17 A. He basically said you need to say what you 18 remember if something was said in front of City 19 Hall, city council, in front of other people, in the 20 elevator, outside of the hall, wherever there were 21 third parties. As I said, I told him much of what I 22 could say or may say would be privileged. 23 Q. What else was said during that 24 conversation?</p>

<p style="text-align: right;">70</p> <p>1 A. That's about it.</p> <p>2 Q. How long did the conversation last?</p> <p>3 A. Maybe ten minutes.</p> <p>4 Q. Prior to that conversation, when was the</p> <p>5 next conversation back that you had with Mr. Duggan</p> <p>6 regarding this matter?</p> <p>7 A. I don't know if we had a conversation</p> <p>8 regarding this matter.</p> <p>9 Q. You indicated that you spoke to Mr. Duggan</p> <p>10 about ten times over the last seven years?</p> <p>11 A. Yeah.</p> <p>12 Q. I'm going to ask you about each one of</p> <p>13 those conversations.</p> <p>14 A. If you would like me to go back and get a</p> <p>15 list of how many phone calls we have had, I'll be</p> <p>16 happy to address the conversations as I can recall</p> <p>17 them. We have discussed politics. We have</p> <p>18 discussed liberalism. We have discussed the city</p> <p>19 attorney's position in Methuen and the Methuen</p> <p>20 mayoral race more recently.</p> <p>21 Q. With respect to, focusing at least for the</p> <p>22 moment on anything that has to do with this case,</p> <p>23 which means anything that involves me, anything that</p> <p>24 involves Carmine DiAdamo, anything that involves</p>	<p style="text-align: right;">72</p> <p>1 A. No, I'm not aware of that.</p> <p>2 Q. Were you in any way, shape or form a source</p> <p>3 of the broadcast that Mr. Duggan made in August of</p> <p>4 2008?</p> <p>5 A. No.</p> <p>6 Q. Are you aware of the identities of any</p> <p>7 sources that Mr. Duggan had for his broadcast in</p> <p>8 August of 2008?</p> <p>9 A. No.</p> <p>10 Q. We've eliminated everything prior to August</p> <p>11 of 2008. Since August 2008 when was the first time</p> <p>12 that you had a conversation with Mr. Duggan</p> <p>13 regarding me, Andrea Traficanti, Frank McCann,</p> <p>14 anything to do -- I'm going to cancel that question.</p> <p>15 Let's be clear on the record.</p> <p>16 Would you agree that you are generally</p> <p>17 familiar with the substance and claims in this</p> <p>18 lawsuit?</p> <p>19 A. Yes.</p> <p>20 Q. You know that they involve me, Carmine</p> <p>21 DiAdamo, Andrea Traficanti, Frank McCann, Michael</p> <p>22 Sullivan, Michael Sweeney, Tom Schiavone, and others</p> <p>23 in City Hall?</p> <p>24 A. Until I was noticed for the depo, I didn't</p>
<p style="text-align: right;">71</p> <p>1 Andrea Traficanti, Frank McCann, the GLSD, those</p> <p>2 subject matters that you talked about today, how</p> <p>3 many times have you had a conversation with</p> <p>4 Mr. Duggan regarding any of those issues?</p> <p>5 A. Any conversation?</p> <p>6 Q. Yes.</p> <p>7 A. Maybe three or four occasions.</p> <p>8 Q. When was the first one?</p> <p>9 A. Probably back when I was still with the</p> <p>10 city.</p> <p>11 Q. You were with the city, you indicated</p> <p>12 earlier, until April of 2012?</p> <p>13 A. That's correct.</p> <p>14 Q. So when did you have that -- I'm trying to</p> <p>15 break it down into chunks that we can manage here.</p> <p>16 Let me ask this question first. Did you ever have a</p> <p>17 conversation with Mr. Duggan regarding the Andrea</p> <p>18 Traficanti case or any of the subject matters</p> <p>19 involved in this lawsuit prior to August of 2008?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Were you aware of any conversations that</p> <p>22 Mr. Duggan had with any individuals regarding the</p> <p>23 subject matter of this lawsuit prior to August of</p> <p>24 2008?</p>	<p style="text-align: right;">73</p> <p>1 realize Tom Schiavone and Bill Manzi were involved.</p> <p>2 Q. Okay. As we sit here now, you're aware of</p> <p>3 that?</p> <p>4 A. I'm aware of that.</p> <p>5 Q. When I ask you these questions, you realize</p> <p>6 I'm asking you about the entirety of this case?</p> <p>7 A. Yes.</p> <p>8 Q. So when was the first time that you had a</p> <p>9 conversation with Mr. Duggan regarding anything to</p> <p>10 do with this case?</p> <p>11 MR. DICKISON: Objection.</p> <p>12 A. I don't recall.</p> <p>13 Q. 2008?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you know if it was after the lawsuit was</p> <p>16 filed or before the lawsuit was filed?</p> <p>17 A. I would think it would be after the suit</p> <p>18 was filed. I didn't have a lot of contact with him</p> <p>19 because I was, first of all, mindful of my role as a</p> <p>20 city attorney; secondly, mindful of my relationship</p> <p>21 with Andrea Traficanti and Frank McCann; and third,</p> <p>22 having been the object of many a skewering in the</p> <p>23 public media, I was as leery of Mr. Duggan as I was</p> <p>24 of any other media source.</p>

<p style="text-align: right;">74</p> <p>1 Q. Why were you leery of Mr. Duggan?</p> <p>2 A. Because he's a journalist and they seek</p> <p>3 sensational stories and they seek to inform the</p> <p>4 public of things that may not always appear what</p> <p>5 they are.</p> <p>6 Q. Do you believe that Mr. Duggan has ever</p> <p>7 done that?</p> <p>8 A. No, I don't believe that he has been, from</p> <p>9 what I know, nonfactual. Do I believe he</p> <p>10 sensationalized? Yes.</p> <p>11 Q. Are you aware of anything he's ever printed</p> <p>12 that's been incorrect?</p> <p>13 A. No, not that I'm aware of.</p> <p>14 Q. Do you recall how you first became aware of</p> <p>15 the existence of this lawsuit?</p> <p>16 A. I read about it in his paper. I must have</p> <p>17 read about it in his paper.</p> <p>18 Q. Do you recall when you read about it?</p> <p>19 A. No.</p> <p>20 Q. Do you recall there being a story regarding</p> <p>21 the lease of 237-255 Essex Street to the School</p> <p>22 Department?</p> <p>23 A. Would you repeat that?</p> <p>24 Q. Do you recall a story in the Valley Patriot</p>	<p style="text-align: right;">76</p> <p>1 Q. Considering your position as city attorney</p> <p>2 in 2008, is it fair to say that it is unlikely that</p> <p>3 you had any conversation regarding this matter with</p> <p>4 Tom Duggan at that time?</p> <p>5 A. Yes.</p> <p>6 Q. Considering that you were a city attorney</p> <p>7 in 2009, is it unlikely that you had any</p> <p>8 conversation with Mr. Duggan regarding this case at</p> <p>9 that time?</p> <p>10 A. Yes.</p> <p>11 Q. Would the same thing be true in 2010?</p> <p>12 A. I don't believe I had any conversation</p> <p>13 regarding this particular matter. He may have</p> <p>14 approached me about something at some point. If</p> <p>15 ever he was seeking information, not just about</p> <p>16 this, about anything, I would respond in the same</p> <p>17 manner: I represent the city; I'm not talking to</p> <p>18 you, and I can't respond to you and I'm not going to</p> <p>19 get into it.</p> <p>20 Q. Can you tell me -- I forget what year I was</p> <p>21 on.</p> <p>22 A. I believe 2010.</p> <p>23 Q. Do you recall having any conversation with</p> <p>24 Mr. Duggan in 2011 regarding any of the subject</p>
<p style="text-align: right;">75</p> <p>1 regarding the lease of 237-255 Essex Street to the</p> <p>2 School Department?</p> <p>3 A. Vaguely.</p> <p>4 Q. You are aware that the School Department</p> <p>5 currently leases that space from 237 Essex Street</p> <p>6 Realty Trust, of which my father is the trustee?</p> <p>7 A. Yes.</p> <p>8 Q. You are aware that that lease has been in</p> <p>9 place for years?</p> <p>10 A. Yes.</p> <p>11 Q. Did you speak to Mr. Duggan about this case</p> <p>12 prior to your reading about something in the Valley</p> <p>13 Patriot?</p> <p>14 A. With regard to?</p> <p>15 Q. I'm trying to get a time frame of when you</p> <p>16 first spoke to Mr. Duggan regarding this matter. I</p> <p>17 don't know if it was 2008. I don't know if it was</p> <p>18 2012.</p> <p>19 A. I don't either. I don't recall if we had</p> <p>20 any conversations in 2008. As I said, I was still</p> <p>21 employed by the city and extremely leery of speaking</p> <p>22 with him. I would see him at the events and</p> <p>23 functions. I would frankly give him a little jab</p> <p>24 myself once in a while.</p>	<p style="text-align: right;">77</p> <p>1 matters of this lawsuit?</p> <p>2 A. No.</p> <p>3 Q. Is it fair to say that given your position</p> <p>4 as city attorney in 2011 that you would not have</p> <p>5 spoken to Mr. Duggan about --</p> <p>6 A. I think it is fair to say, Mr. DiAdamo,</p> <p>7 that based upon my medical condition in 2011, I</p> <p>8 wasn't of a mind to speak to anybody about anything.</p> <p>9 Q. Fair enough. Would the same be true of</p> <p>10 2012?</p> <p>11 A. I would say so.</p> <p>12 Q. So to the best of your recollection, you</p> <p>13 had no conversation with Mr. Duggan regarding</p> <p>14 anything related to this lawsuit prior to 2012; is</p> <p>15 that correct?</p> <p>16 A. I would say so, yes.</p> <p>17 Q. Do you know if you had a conversation with</p> <p>18 him about this lawsuit in 2012 itself?</p> <p>19 A. No. I mean, I know I did not. Your</p> <p>20 question was do I know if I know. I responded no.</p> <p>21 Q. Unartfully worded questions.</p> <p>22 A. That's all right. I'm just clarifying so</p> <p>23 that I'm not beaten over the head later where you</p> <p>24 said this.</p>

<p style="text-align: right;">78</p> <p>1 Q. I want to be clear. Just to be clear, from 2 my understanding of the questions that I have just 3 asked you, you had no conversation with Mr. Duggan 4 regarding anything relating to this lawsuit prior to 5 2008, 2009, 2010, 2011, 2012; is that correct? 6 A. I would say so. 7 Q. Do you remember having any conversation 8 with Mr. Duggan regarding the substance of this 9 lawsuit in 2013? 10 A. No. 11 Q. At that point you were no longer employed 12 with the city; is that correct? 13 A. That's correct. 14 Q. However, you are still aware of your 15 obligations as a former attorney with the city with 16 respect to privilege issues; is that correct? 17 A. As evidenced by my responses today, yes. 18 Q. Absolutely. I'm trying to get a grip on 19 when those approximately three to four conversations 20 with Mr. Duggan took place. Is it fair to say that 21 they must have taken place within the last year? 22 A. Yes. It was more recently, as my 23 involvement, which I frankly never expected, in this 24 matter became apparent.</p>	<p style="text-align: right;">80</p> <p>1 school committee in the City of Lawrence. I think I 2 was alderman at the time. I certainly know of the 3 tragic story regarding his dad. Other than that... 4 Q. Mr. D'Agostino, what I'm trying to get at 5 is, prior to today, have you ever provided 6 Mr. Duggan any information regarding anything, any 7 aspect of anything related to this case? 8 A. No. 9 Q. Have you provided that information to any 10 friend, relative, representative of Mr. Duggan, his 11 attorney, for example? 12 A. No. 13 Q. Have you had any conversations before today 14 with Mr. Caruso, ever? 15 A. Only regarding other cases. 16 Q. Have you ever discussed with Mr. Caruso 17 anything involving this case? 18 A. No. 19 Q. Aside from today and certainly excepting 20 your conversations with Attorney Ruano, have you 21 discussed the subject matter of this case with any 22 other individual? 23 A. I discussed my deposition, my being called 24 to a deposition.</p>
<p style="text-align: right;">79</p> <p>1 Q. Did Mr. Duggan reach out to you at some 2 point? 3 A. No. I received the deposition notice. 4 Q. Prior to receiving the deposition notice, 5 had you ever had a conversation regarding any aspect 6 of this case, anything related to this case with 7 Mr. Duggan? 8 A. No. I mean there may have been times that 9 over those years that you stated that he may have 10 probed or tended to probe about this case or about 11 this matter, but I responded in kind that I was not 12 going to discuss anything of that nature. That was 13 not often at all because I didn't have a lot of 14 contact him and cared not to, frankly. Nothing 15 personal, just his role. 16 Q. You did have more contact with Mr. Duggan 17 more recently with respect to your involvement in 18 the Methuen city solicitor's position; is that 19 correct? 20 A. Yeah, I would say more so. Again, not 21 often. He took a position publicly on his Facebook 22 page regarding my involvement in that. I did not 23 contact him nor did I have a discussion about it. I 24 knew him since he was 18 years old when he ran for</p>	<p style="text-align: right;">81</p> <p>1 Q. Who did you discuss that with? 2 A. My wife, Susan. 3 Q. I don't want to know about conversations 4 with your wife. 5 A. You're not going to, trust me. You said 6 who. I'm telling you who. A couple of other 7 friends of mine. Sal Lonano, who I'm going to meet 8 in Boston this evening; Ralph Quaglietta, who I 9 called on the way in; Michael Gagliardi, who is a 10 union representative and a personal friend of mine; 11 and Mr. Duggan. I frankly discussed that I was a 12 little disturbed that I was even subpoenaed here. 13 Q. Did you have any conversation with any of 14 those individuals, excepting your wife, with any of 15 those individuals regarding the subject matter of 16 this case? 17 A. No. They would ask. I just informed them 18 I was going to Boston for a deposition and I'm not 19 taking it, I was the subject of it, the DiAdamo 20 versus Duggan case. Mr. Lonano doesn't know who 21 either of you are. Nobody pursued it otherwise. 22 Q. You mentioned Mr. Gagliardi? 23 A. Yes. 24 Q. Can you describe who Mr. Gagliardi is?</p>

<p style="text-align: right;">82</p> <p>1 A. Michael Gagliardi is the -- he's the 2 business agent or business manager for the labor 3 union local international, 175 is the local number. 4 He has an office in Methuen. And he had, up until 5 last Friday he represented laborers that worked for 6 the City of Methuen. He represents many laborers in 7 the area. I think he has 800 members in his unit. 8 Mostly private and not public. 9 Q. Did Mr. Gagliardi ever represent any unions 10 that were involved in the City of Lawrence in any 11 way? 12 A. Not while I was there, no. Not that I can 13 recall. My history with the city, as you well know, 14 spans many years. Not that I recall. 15 Q. To the best of your memory, prior to my 16 termination in June of 2008, what work did I do for 17 the City of Boston? 18 A. That I don't know. 19 Q. I'm looking out the window. Let me 20 rephrase. What work, to your knowledge, did I 21 perform for the City of Lawrence? 22 A. You were the workers' compensation 23 attorney, as far as I knew. 24 Q. What, if anything else, did I do for the</p>	<p style="text-align: right;">84</p> <p>1 A. No. All I recall -- I wasn't even sure 2 what the WIB was until Mayor Sullivan sent me down, 3 when they fired the director, to baby-sit the place 4 for a week prior to -- addressing that situation and 5 bringing someone else on. 6 Q. But you have no personal knowledge as to 7 anything that I did or did not do with respect to 8 that matter. 9 A. No. I didn't even have any interaction 10 with you during that time regarding that. 11 Q. Okay. Is it fair to say that you and I had 12 no interaction whatsoever with respect to the 13 defense of any workers' compensation case prior to 14 my termination in June of 2008? 15 A. That's correct. 16 Q. You indicated earlier, in response to a 17 question asked by Mr. Caruso about your opinions of 18 my capability, you indicated that you did not 19 think -- I may be misstating this because my notes 20 are quick and my handwriting is terrible so correct 21 me please -- you stated you did not find me to be 22 dynamic or overzealous in my advocacy. Can you 23 please tell me the basis of that statement? 24 A. I think it was in regard particularly to</p>
<p style="text-align: right;">83</p> <p>1 City of Lawrence? 2 A. Prior to 2008, I don't believe you were 3 involved in any civil matters that I recall, other 4 than workers' compensation. 5 Q. As you said, you were an assistant city 6 attorney during this time period? 7 A. Yes. You may have been involved with the 8 WIB, but I wasn't involved with that. 9 Q. We will get there in a moment. To your 10 knowledge, I did not represent the city in any civil 11 matters prior to 2008; is that right? 12 A. Not that I recall, no. 13 Q. In fact, you handled the majority of the 14 litigation, according to your testimony, prior to 15 that time? 16 A. My testimony and reality, yes. 17 Q. And you know that I had involvement with 18 the Workforce Investment Board; is that correct? 19 A. Yes. 20 Q. Do you know what that involvement was? 21 A. No, I don't. 22 Q. Do you know anything at all other than 23 somehow I was involved as an attorney with respect 24 to something that had to do with the WIB?</p>	<p style="text-align: right;">85</p> <p>1 that case, I thought, as I recall, my response. To 2 the Andrea Traficanti case. 3 Q. In what respect did you find my performance 4 to be not dynamic or overzealous? 5 A. As I said, my opinion was I felt you were 6 hampered by your relationship with them, by your 7 friendship with them, by your relationship with the 8 Greater Lawrence Sanitary District and the political 9 pressure and their particular relationship with 10 Mr. Patrick Blanchette, who was city council 11 president at the time, and whatever pressure he may 12 have been able to bring to bear. 13 Andrea is a very tenacious and difficult 14 individual to deal with, and highly charged and 15 highly motivated by politics and highly political 16 and a take-no-prisoners type of person. I felt that 17 perhaps all of that may have played into your 18 zealous advocacy. 19 Q. What did -- to your knowledge, what did I 20 do with respect to the GLSD? 21 A. I don't know what you were handling 22 specifically. When we first hired you, your father, 23 your firm, it was specifically that time for a 24 contract and a lawsuit, a million dollar lawsuit</p>

<p style="text-align: right;">86</p> <p>1 that we were being sued for. I know that case went 2 on for quite a while. I know the representation 3 continued past my tenure. 4 I would say at the time we had Attorney 5 John Ford who was the advisor and on the payroll at 6 the Sanitary District, but your father was also 7 involved. It was for things that we felt were 8 beyond the scope of Attorney Ford's capability or 9 maybe interest or areas of expertise. Attorney Ford 10 is a capable attorney. I don't want to disparage 11 him. I felt that your role continued in that 12 manner. Again, I don't have that knowledge. 13 Perhaps you even took his place. He has gotten on 14 in years and I don't know how long it has been since 15 he has not worked there. 16 Q. I'm not asking what your opinion is, but 17 what the facts are that are the basis of your 18 opinion. What did I do for the GLSD? 19 A. Well, I can't give you an opinion. It is 20 either factual or not. My opinion regarding what 21 you did is of no consequence. I have no idea what 22 you did. I wasn't there. 23 Q. Okay. Just to be clear, you have no idea 24 what work I performed for the GLSD; is that correct?</p>	<p style="text-align: right;">88</p> <p>1 member communities; is that right? 2 A. Yes, as I recall. Three from Lawrence, two 3 from Methuen, one from Andover, one from North 4 Andover and a nonvoting member from Salem, New 5 Hampshire, as I recall. 6 Q. Correct. Aside from Mr. McCann, do you 7 know who else was on the board during the period of 8 time that I performed work for the GLSD? 9 A. I think Leonard Degnan was on that board 10 while you were there. 11 Q. Do you know who else was on? 12 A. No, I lost track of the representatives 13 there. 14 Q. You are familiar with the process of 15 retaining counsel for the GLSD; is that correct? 16 A. Yes. 17 Q. And that is something that is done by the 18 entire board; is that correct? 19 A. Yes. 20 Q. There is no one person that's responsible 21 for that; is that correct? 22 A. That's correct. 23 Q. The decision is made by seven people from 24 five communities?</p>
<p style="text-align: right;">87</p> <p>1 A. Say that again? 2 Q. Yes. Just to be clear, you have no 3 knowledge whatsoever about what work I did for the 4 GLSD? 5 A. Subsequent to 1994, no. 6 Q. I did not work for the GLSD prior to 1994. 7 A. So then I have no knowledge. 8 Q. For what period did I do work for the GLSD? 9 A. I don't know the period. 10 Q. Do you know when I stopped doing work for 11 the GLSD? 12 A. No, I don't. I know that you worked for 13 the GLSD while Frank McCann was on the board. 14 Q. Mr. McCann was on the board as the 15 department head for the Department of Public Works; 16 is that correct? 17 A. Yes. 18 Q. That's the same capacity that you were on 19 the GLSD; is that correct? 20 A. That's correct. 21 Q. The GLSD is composed of a board of seven 22 members; is that correct? 23 A. Yes. 24 Q. And those seven members are from the five</p>	<p style="text-align: right;">89</p> <p>1 A. That's correct. 2 Q. It was not a decision made by Frank McCann? 3 A. Solely, no. The authority would be, as I 4 recall, the director perhaps would seek the counsel 5 and then make the recommendation to the board for 6 approval. 7 Q. The executive director for -- I don't know 8 when he came on. Do you remember who the executive 9 director was during the 2000 years, the year of 10 2000? 11 A. I can't recall his name now. I did know 12 it. I can't recall it. I know the board has to 13 vote also on bills every month. 14 Q. The entire board reviews the bills? 15 A. That's right. Or a subcommittee. When I 16 was there it was a subcommittee, and recommendations 17 were made to the entire board. It may have changed. 18 Q. What specifically did I do that was not 19 dynamic or overzealous with respect to the defense 20 of the Andrea Traficanti case? 21 A. I'm going to assert the privilege to 22 respond to that as well and not respond. 23 Q. Do you have personal knowledge as to what I 24 did or did not do with respect to the defense of the</p>

<p style="text-align: right;">90</p> <p>1 Andrea Traficanti case?</p> <p>2 A. I will assert the privilege to not respond</p> <p>3 as well.</p> <p>4 Q. Were you involved personally in any respect</p> <p>5 with the defense of the Andrea Traficanti case?</p> <p>6 A. No.</p> <p>7 Q. Did you -- you may have been asked this</p> <p>8 before. You did not attend any hearings; is that</p> <p>9 correct?</p> <p>10 A. That's correct.</p> <p>11 Q. We'll leave the rest on the privilege issue</p> <p>12 until we get there. I'll leave that alone.</p> <p>13 A. Sure.</p> <p>14 Q. You spoke about there is political</p> <p>15 influence when you represent a city; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Does that apply to you as assistant city</p> <p>19 solicitor?</p> <p>20 A. Yes.</p> <p>21 Q. That there were political considerations</p> <p>22 that would dictate what you were instructed to do;</p> <p>23 is that correct?</p> <p>24 A. Yeah, I would say so. Yes, I would say so.</p>	<p style="text-align: right;">92</p> <p>1 confuse me.</p> <p>2 Q. What's the basis of the statement that you</p> <p>3 just made?</p> <p>4 A. What part of it?</p> <p>5 Q. We'll start with, you indicated that there</p> <p>6 was something with respect to making Andrea</p> <p>7 Traficanti, getting Andrea Traficanti some</p> <p>8 additional position; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. What's the basis for that statement?</p> <p>11 A. The basis of the statement is that she</p> <p>12 applied to be superintendent of the cemetery. The</p> <p>13 interviews were conducted in the city attorneys'</p> <p>14 office. Because of a possible conflict of Attorney</p> <p>15 Boddy and his mother being chairman of that cemetery</p> <p>16 board at that time, I was asked to preside over some</p> <p>17 of their deliberations, the cemetery board's</p> <p>18 deliberations regarding that hiring.</p> <p>19 Q. Did that have anything to do with your</p> <p>20 position as city attorney?</p> <p>21 A. Yeah, I was instructed by the city attorney</p> <p>22 to sit in.</p> <p>23 Q. What we are talking now --</p> <p>24 A. Perhaps even the mayor. I'm not sure.</p>
<p style="text-align: right;">91</p> <p>1 In fact, it is one of the reasons that I believe</p> <p>2 what happened to me with the City of Lawrence</p> <p>3 happened to me, Mr. DiAdamo; because my opinion in</p> <p>4 regards to the law and proper advocacy conflicted</p> <p>5 with the politics.</p> <p>6 Q. I'm asking what political influence was</p> <p>7 brought to bear on me with respect to the City of</p> <p>8 Lawrence.</p> <p>9 A. It is a political environment. The same</p> <p>10 issues, the same posturing or political perspective</p> <p>11 that's brought to many cases, if not every case,</p> <p>12 dealing with the city, always plays a role or at</p> <p>13 least rears its head, even if not the ultimate</p> <p>14 determinant.</p> <p>15 As I stated, Ms. Traficanti's position</p> <p>16 and her political clout, particularly with</p> <p>17 Mr. Blanchette. At the time, also, let's not ignore</p> <p>18 the fact that she was a strong advocate and</p> <p>19 supporter of Mayor Michael Sullivan as well until</p> <p>20 they had a political falling out. And then she</p> <p>21 suddenly became too stressed to be in his presence.</p> <p>22 However, at the same time she was so stressed and</p> <p>23 out on that stress, she applied for a job to be one</p> <p>24 of his department heads. These things kind of</p>	<p style="text-align: right;">93</p> <p>1 Q. When did this take place?</p> <p>2 A. I really can't recall. I'm not sure if</p> <p>3 there would be something to refresh my memory. I</p> <p>4 can't recall.</p> <p>5 Q. Can you put a year on it?</p> <p>6 A. No. Prior to January 11, 2011 is the best</p> <p>7 I can do. Certainly not back to 2005. It was</p> <p>8 during the time period, somewhere between the time</p> <p>9 Ms. Traficanti was out on workers' comp and the</p> <p>10 hiring process was ensued.</p> <p>11 Q. To your knowledge, when was the hiring</p> <p>12 process ensued?</p> <p>13 A. I don't recall.</p> <p>14 Q. Why was the hiring process ensued, if you</p> <p>15 know?</p> <p>16 A. The superintendent had retired I believe.</p> <p>17 Q. The superintendent of?</p> <p>18 A. Of the cemetery.</p> <p>19 Q. What were you asked to do?</p> <p>20 A. I had sat in on one or two of their</p> <p>21 deliberations of the board's deliberations during</p> <p>22 the hiring process. Not the interviews, but</p> <p>23 subsequent to the interviews.</p> <p>24 Q. Was this a public event?</p>

<p style="text-align: right;">94</p> <p>1 A. Yes, it was. I believe it was. It was 2 held -- first it was held in the city attorneys' 3 office. And again, speaking perhaps out of turn, I 4 raised the specter of possible conflict there as 5 well because the city attorney's mother was chairman 6 of the board. Even having it in the city attorneys' 7 office I felt could raise that conflict specter. 8 They ended up having final discussions and decisions 9 at the Bellevue Cemetery office itself, of which I 10 did not attend. I attended one, I'm sorry. 11 Q. When you say you were present, to your 12 knowledge why were you present? 13 A. I think it was to advise them if they 14 required some legal advice that was required with 15 regard to the hiring process. 16 Q. Did you provide any legal advice? 17 A. I may have, discussions. 18 Q. Who was present? 19 A. Mrs. Boddy, Nicholas Kolofoles, Elizabeth 20 Charlton; I'm trying to recall who the members were. 21 There was another gentleman whose name escapes me. 22 Myself. There was a lot of arguing going on. I 23 don't really recall who else was present. 24 Q. What was the argument that was going on?</p>	<p style="text-align: right;">96</p> <p>1 was comical because Mrs. Boddy has a serious hearing 2 problem. And so Nick somehow thought that by 3 yelling loudly at her she could hear. I recall her 4 gesturing with her hands strangling saying: You've 5 created a monster here. It was contentious. 6 Q. You testified earlier that you are -- 7 strike that. You testified earlier that you were 8 social friends with Mr. McCann and Ms. Traficanti? 9 A. Correct. 10 Q. And when did you start your social 11 relationship with them? 12 A. Frank McCann goes back to when I was an 13 alderman. 14 Q. You mentioned that you hired him? 15 A. He was already -- he had been working for 16 the city for quite some time prior to my arrival. 17 Q. But he became superintendent? 18 A. He became superintendent. I think he was 19 general foreman. I made him superintendent. I had 20 him do both roles. He was very capable in what he 21 did. 22 Q. Mr. McCann was a friend of yours; is that 23 right? 24 A. Not prior to my election.</p>
<p style="text-align: right;">95</p> <p>1 A. Over who they were going to nominate and 2 who they were going to hire. 3 Q. Mr. D'Agostino, is the hiring process in 4 the City of Lawrence typically a public event? 5 A. Usually at the initial stages they are not, 6 because there are considerations of folks losing 7 jobs because, present jobs because they apply for a 8 different job. I believe usually when the process 9 reaches semifinal stages that it becomes a public 10 event. 11 Q. And you were there as a legal 12 representative from the city to perhaps offer legal 13 advice if necessary; is that right? 14 A. That's correct, as I recall. 15 Q. Was there more than one candidate besides 16 Andrea Traficanti? 17 A. Yes. 18 Q. Who was the other candidate or candidates? 19 A. I don't recall. The gentleman who has the 20 job now may have been one of them. Mr. Ferris, I 21 think it was. I recall that Mrs. Boddy was very 22 opposed to Andrea Traficanti's appointment. 23 Mr. Kolofoles was a great advocate of hers. A lot 24 of arguing went on as a result of that. In fact, it</p>	<p style="text-align: right;">97</p> <p>1 Q. Are you still friendly with Mr. McCann? 2 A. Yes. I haven't had contact with him in at 3 least three or four years, perhaps. 4 Q. When did you become friendly with 5 Ms. Traficanti? 6 A. Andrea; as I said, I was friendly with the 7 mother. Andrea; I became friendly with her, she 8 used to come, when I had my office on Essex Street 9 when I started my law practice, I think she was a 10 client of Lenny Degnan's insurance agency. She 11 would come over about her insurance bill or 12 political gossip. Lenny and I were very friendly at 13 the time and sometimes he would call me over. I 14 became more friendly with her then. That's when I 15 was introduced to her. 16 Q. If you can refresh me, you were in this 17 private practice sometime in that '97 to 2005-ish? 18 A. That's correct. February of 1997 until 19 June 2005, when I was hired by the city to the city 20 attorneys' office. 21 Q. You became personally friendly with Andrea 22 Traficanti prior to 2005? 23 A. Yes. The tentacles are long. Her 24 grandfather worked for me, though not for long, in</p>

<p style="text-align: right;">98</p> <p>1 the street department. Her mother worked in the 2 purchasing department. I knew the mother since 1978 3 when she worked for Billy Kannan there when he was 4 purchasing director. Alphonse Leo, her uncle, 5 worked for me in the street department. And her 6 sister -- I'm sorry -- her Aunt Nellie also worked 7 for me in the street department.</p> <p>8 Q. Did Mr. McCann ever at any time for any 9 reason try to exert any political influence over 10 you -- strike that -- any influence over you?</p> <p>11 A. I think you would have to clarify for 12 subject matter, specific subject matter. In 13 general, no.</p> <p>14 Q. I'm just asking you whether or not 15 Mr. McCann, to start with, ever tried to exert any 16 influence over you for any reason.</p> <p>17 A. Since I've ever known him?</p> <p>18 Q. Yes.</p> <p>19 A. Sure. He wanted to become the 20 superintendent in the Water Department.</p> <p>21 Q. Aside from that, anything else?</p> <p>22 A. I remember there was a situation of payroll 23 employee upgrades, nonunion employee upgrades that 24 he was advocating for. I didn't have any influence.</p>	<p style="text-align: right;">100</p> <p>1 Boddy's face the fact that Patrick Blanchette had 2 basically been the reason that he got the job as 3 city attorney. She always held that over his head 4 as sort of like a lever. She actually expected that 5 he was going to deliver his mother's vote for her as 6 the superintendent at the cemetery, of which he had 7 no influence over his mother. And anyone who knows 8 his mother will understand that.</p> <p>9 Q. You had said that Mrs. McCann would 10 threaten. You mentioned one that I'll ask about 11 again in a moment. Did Mrs. McCann -- did 12 Ms. Traficanti threaten you on any occasion?</p> <p>13 A. I wouldn't allow her to threaten me.</p> <p>14 Q. So the answer is no?</p> <p>15 A. The answer is no.</p> <p>16 Q. Did Ms. Traficanti threaten Attorney Boddy 17 at any time in your presence?</p> <p>18 A. Yes.</p> <p>19 Q. When?</p> <p>20 A. In regard to her seeking the position of 21 superintendent of the Bellevue Cemetery and 22 delivering his mother's vote.</p> <p>23 Q. Any other time?</p> <p>24 A. Not that I recall. Charlie would tell me</p>
<p style="text-align: right;">99</p> <p>1 Mr. Blanchette did. We had discussions on that but 2 I wouldn't say any influence. We had a friendship, 3 a relationship.</p> <p>4 Q. Did Ms. Traficanti ever try to exert any 5 influence over you for any reason?</p> <p>6 A. Yeah. Ms. Traficanti would threaten you 7 when she didn't get her way. I recall a time that 8 she came into the city attorneys' office, and it may 9 have been after she went out on workers' comp, I'm 10 not a hundred percent sure; but she started making 11 accusations, and she threatened Attorney Boddy and 12 said that the council president shall hear of this, 13 and I retorted: No, the king shall hear of this. 14 And I actually escorted her out of the office at 15 that time.</p> <p>16 Q. Do you know when that was?</p> <p>17 A. I think it may have been just before or 18 after she went out on comp. I think I told her it 19 was inappropriate for her to be in the office. It 20 may have been -- she had fallen out of favor with 21 Mayor Sullivan -- not long before she went out on 22 comp when she was going through one of these 23 threatening episodes where she was seeking support. 24 She was constantly throwing in Attorney</p>	<p style="text-align: right;">101</p> <p>1 different stories. Sometimes she would call him up 2 and ream him and always throwing in his face how 3 tight she was with Patrick Blanchette and how he 4 owed his job to Patrick Blanchette.</p> <p>5 Q. I'm asking about anything you personally 6 heard or observed or were present for and having 7 actual personal knowledge of.</p> <p>8 A. That time that I relayed.</p> <p>9 Q. That's it?</p> <p>10 A. The best one that I can recall.</p> <p>11 Q. Can you recall anything else?</p> <p>12 A. Not at this time.</p> <p>13 Q. Can you recall Ms. Traficanti threatening 14 anyone else that you have personal knowledge of?</p> <p>15 A. She threatened Kathy Vallaincort, that I 16 have personal knowledge of. I can't recall any 17 other.</p> <p>18 Q. When was that?</p> <p>19 A. I can't recall that.</p> <p>20 Q. What was the subject matter of the 21 situation?</p> <p>22 A. It had to do with Kathy being, I won't say 23 subservient but answering to Mayor Sullivan or doing 24 what Mayor Sullivan wanted, which she may have found</p>

<p style="text-align: right;">102</p> <p>1 detrimental to Frank McCann. Kathy worked in 2 Frank's office at the time. I don't know if she was 3 a clerk, receptionist; I'm not sure what her role 4 was. 5 Q. You were present for that? 6 A. Yes. 7 Q. Do you know what it was that Ms. Traficanti 8 said? 9 A. She may have made some threat about her 10 influence with Patrick Blanchette and the council, 11 always referring to her influence with the council, 12 in cutting out Ms. Vallaincourt's job. 13 Q. And why was she threatening to cut out 14 Ms. Vallaincourt's job? 15 A. As I said, she was favoring the mayor, who 16 I think at the time Andrea and Frank may have had 17 their falling out with the mayor, Mayor Michael 18 Sullivan. 19 Q. What was the subject matter that 20 Ms. Vallaincourt was siding with the mayor on, to 21 your knowledge? 22 A. I don't recall. 23 Q. I may have asked you this. Do you recall 24 when this happened?</p>	<p style="text-align: right;">104</p> <p>1 Q. Mr. D'Agostino, earlier you had said 2 something that you believe that I was at the Frank 3 McCann/Andrea Traficanti wedding; is that correct? 4 A. Yes. I also stated that I may be mistaken. 5 That was my recollection. 6 Q. Do you have any reason to believe that I 7 was there other than some vague memory? 8 A. You were friendly with them. It was a big 9 event for them. 10 Q. Do you remember seeing me there? 11 A. I recall seeing you there. As I said, I 12 may be mistaken. 13 Q. Where was the wedding? 14 A. It was at the DiBurro's. 15 Q. Do you know when it was? 16 A. I don't recall the date. 17 Q. You became aware at some point that 18 Ms. Traficanti and Mr. McCann had a relationship; is 19 that right? 20 A. Yes. 21 Q. When did you become aware of that the first 22 time? 23 A. It was my understanding they had a 24 relationship prior to my being employed with the</p>
<p style="text-align: right;">103</p> <p>1 A. No, I don't recall that. 2 Q. Do you recall when Ms. Traficanti had her 3 falling out with the mayor? 4 A. No, I don't recall. 5 Q. Are you aware of the reasons for the 6 falling out that Ms. Traficanti had with the mayor? 7 A. No, I don't recall. I couldn't really say. 8 There may have been -- I would only speculate if I 9 said it, if I responded. She had issues with 10 Attorney Sweeney. She had issues with this whole 11 upgrade thing. And Patrick Blanchette, who she was 12 totally loyal to at the time, was not a political 13 ally of Mayor Michael Sullivan. So it was related 14 with that as well. 15 (A recess was taken.) 16 MR. DIADAMO: We have agreed that we 17 know we are going to be coming back for another day 18 of Mr. D'Agostino anyway. We are going to go for 19 another 15 or 20 minutes, whatever is convenient. 20 We are just going to then suspend generally. We are 21 going to have other issues to deal with, but this 22 will be a general suspension of the deposition with 23 all avenues and areas of questioning left open for 24 everyone.</p>	<p style="text-align: right;">105</p> <p>1 city. I became aware of it probably through 2 discussions with Mr. Degnan prior to my coming on 3 board with the city in the city attorneys' office. 4 Q. That's what I want to separate here. You 5 were with the city back in the '80s, correct? 6 A. Correct. 7 Q. To your knowledge, was there a relationship 8 at that time? 9 A. No. I think Andrea was a minor at that 10 time. 11 Q. That's why I'm asking the question. 12 A. Yes. 13 Q. You became aware of a relationship -- 14 A. Mr. McCann was married at the time that he 15 worked for me at the street department back in the 16 '80s. He was married for 20 years, I think. 17 Q. Did you become aware of a relationship 18 between Mr. McCann and Ms. Traficanti prior to 19 taking the assistant city solicitor position? 20 A. Yes, I believe so. 21 Q. I believe you just stated that you became 22 aware of it through Mr. Degnan? 23 A. I think so so, yes. 24 Q. Generally, what were you aware of that the</p>

<p style="text-align: right;">106</p> <p>1 relationship was?</p> <p>2 A. That she began working for the city. I</p> <p>3 think Mike Sullivan had brought her onboard. I</p> <p>4 don't think initially she worked for the DPW. I</p> <p>5 think she worked in the clerk's office. Then she</p> <p>6 went to the DPW and a relationship developed between</p> <p>7 Mr. McCann, who was the director at the time. I'm</p> <p>8 not sure if Mr. DiFiore was still there or not.</p> <p>9 Q. To the best of your knowledge, when you</p> <p>10 came on in 2006?</p> <p>11 A. Me, 2005.</p> <p>12 Q. 2005, excuse me. When you came in 2005,</p> <p>13 Ms. Traficanti and Mr. McCann had an ongoing</p> <p>14 relationship?</p> <p>15 A. Yes.</p> <p>16 Q. For the record without being cute about it,</p> <p>17 did you understand it to be a romantic relationship?</p> <p>18 A. Yes. There were concerns about a conflict</p> <p>19 of interest, as well.</p> <p>20 Q. Do you know if that romantic relationship</p> <p>21 existed at all prior to the time when Ms. Traficanti</p> <p>22 started working in the DPW office?</p> <p>23 A. I don't know.</p> <p>24 Q. You testified earlier that you had a social</p>	<p style="text-align: right;">108</p> <p>1 have been 2005, like New Year's Eve 2005, 2006.</p> <p>2 Q. I'm sorry if I've already asked you this or</p> <p>3 if I didn't complete asking this. Do you know when</p> <p>4 Ms. Traficanti had her falling out with Mayor</p> <p>5 Michael Sullivan?</p> <p>6 A. No, that I couldn't say.</p> <p>7 Q. Do you know how you became aware of it?</p> <p>8 A. Through her constantly disparaging the</p> <p>9 mayor whenever she discussed him.</p> <p>10 Q. In what ways would she disparage the mayor?</p> <p>11 A. She always had her nose in everyone's</p> <p>12 business, particularly the mayor's. She would</p> <p>13 discuss things about his relationship with his</p> <p>14 girlfriend at the time. I don't recall who that</p> <p>15 was. It more came about as a result of a loggerhead</p> <p>16 between Patrick Blanchette and Mayor Michael</p> <p>17 Sullivan and her allegiance and alliance to Patrick</p> <p>18 Blanchette.</p> <p>19 I'm going to say it came about after the</p> <p>20 time Michael Sullivan was reelected. I recall that</p> <p>21 Patrick Blanchette supported Michael Sullivan in his</p> <p>22 reelection bid. Even then it was kind of like a big</p> <p>23 political coup because there was friction between</p> <p>24 the mayor and Blanchette prior to that but they set</p>
<p style="text-align: right;">107</p> <p>1 relationship with Mr. McCann and Ms. Traficanti; is</p> <p>2 that right?</p> <p>3 A. That's right.</p> <p>4 Q. And even you and your wife would</p> <p>5 occasionally go out to dinner with them?</p> <p>6 A. That all came about subsequent to my being</p> <p>7 hired by the city in the city attorneys' office.</p> <p>8 Q. That's what I'm getting at. When did that</p> <p>9 friendship start up?</p> <p>10 A. My friendship started with Mr. McCann when</p> <p>11 he was working for me back in the 1980s. I don't</p> <p>12 think we went out socially back then other than</p> <p>13 perhaps one of my political fundraisers or something</p> <p>14 of that nature. But Frank and I did not have a lot</p> <p>15 of contact in the intervening years. So -- when I</p> <p>16 say Frank, Mr. McCann. So subsequent to my being</p> <p>17 hired by the city, Frank and Andrea, particularly</p> <p>18 Andrea, increased their interest in having a social</p> <p>19 relationship.</p> <p>20 Q. At what point did you start being more</p> <p>21 active socially, actively seeing each other outside</p> <p>22 of City Hall?</p> <p>23 A. Perhaps within a year or two of my return.</p> <p>24 Maybe 2000. I was hired in June of 2005. So it may</p>	<p style="text-align: right;">109</p> <p>1 aside their differences. Whatever year that was, I</p> <p>2 don't recall offhand.</p> <p>3 Q. Mayor Sullivan would have been running for</p> <p>4 reelection in 2005; is that right?</p> <p>5 A. Yes. Let me see, was that reelection?</p> <p>6 When was he first elected? I don't recall. You ask</p> <p>7 the questions. I'll provide the answers.</p> <p>8 Q. Mayor Sullivan originally ran for office in</p> <p>9 2001 and he took office in January of 2002. Does</p> <p>10 that sound correct to you?</p> <p>11 A. Yeah, perhaps.</p> <p>12 Q. I don't want to overly belabor this.</p> <p>13 A. I'm trying to get a time frame in to</p> <p>14 respond to you.</p> <p>15 Q. Mayor Rivera took office in January 2014;</p> <p>16 Mayor Lantigua in January of 2010. Michael Sullivan</p> <p>17 took office in the second term in January of 2006,</p> <p>18 therefore he would have been running in 2005. Does</p> <p>19 that make sense?</p> <p>20 A. Yes.</p> <p>21 Q. And again, this is just to put a time frame</p> <p>22 on something. When in this time period do you</p> <p>23 recall Ms. Traficanti being disparaging toward the</p> <p>24 mayor?</p>

<p style="text-align: right;">110</p> <p>1 A. Either 2006 or 2007. I don't a hundred 2 percent recall. The reason I do recall some of the 3 time frame is if we got together on New Year's Eve 4 of 2005 into 2006, which I believe we did, I 5 remember she invited Jay O'Neal and his wife to that 6 gathering and it was rumored that Mr. O'Neal was 7 going to become Mayor Sullivan's chief of staff. 8 That was Andrea's way to curry favor, she would 9 gravitate to whoever's influence could assist her. 10 Why is why, frankly, why I think she resumed or 11 established a social relationship with me after my 12 hiring. 13 Q. Can you explain that? 14 A. I think she thought it might be good to 15 have a friend in the city attorneys' office, other 16 than Charles Boddy. 17 Q. When you became assistant city attorney, 18 Mr. Boddy was already city attorney? 19 A. Yes. 20 Q. How long? 21 A. About a year, a year and a half prior to. 22 I had applied for that position as well at that 23 time. 24 Q. When it was available?</p>	<p style="text-align: right;">112</p> <p>1 perhaps it had to be in February. Because the last 2 day Mayor Lantigua and Mr. Degnan had anything to do 3 with me was March 5, 2010. 4 Q. So it was prior to that? 5 A. Yes. 6 Q. To your memory, was I present there? 7 A. No, I don't recall you being there. 8 Q. Prior to Mayor Lantigua being elected, you 9 had a relationship with him? 10 A. Yes. 11 Q. What was that relationship? 12 A. I was a political supporter of his for many 13 years prior when he was a state rep, prior to being 14 state rep. I even supported Isabelle Melendez on 15 his behalf in her first race against Michael 16 Sullivan for mayor. I represented Mr. Lantigua in a 17 child support matter back in 2005 or '4. It was 18 prior to him, certainly prior to him becoming mayor 19 but while he was a state representative. 20 Q. Did you have any social relationship with 21 Mr. Lantigua during this time period? 22 A. During that previous time period that you 23 just discussed? 24 Q. We'll get to March 5, 2010. But from March</p>
<p style="text-align: right;">111</p> <p>1 A. Yes. 2 Q. Just to sort of finish up this line and I 3 think we'll be done. When was the last time that 4 you socialized in any way with Mr. McCann and/or 5 Ms. Traficanti? 6 A. It would have been well prior to her, well 7 prior -- I specifically couldn't tell you the date, 8 but it was certainly prior to her leaving the city 9 after filing a workers' compensation claim. 10 Q. Have you had any social interaction with 11 Ms. Traficanti or Mr. McCann since she went out on 12 workers' compensation? 13 A. No. 14 Q. When was the last time you recall even 15 seeing or speaking to either of them? 16 A. I'm going to say perhaps 2010. 2010, she 17 and Frank were in attendance, as I was, at a 18 birthday party for Mayor Lantigua held at Terra 19 Luna, across from City Hall. 20 Q. Do you recall when that was? 21 A. 2010, whenever the mayor's birthday was, 22 February or March. 23 Q. Was it shortly after he had taken office? 24 A. Yes. You know what, it had to be --</p>	<p style="text-align: right;">113</p> <p>1 5 backwards, at any point did you have a social 2 relationship with Mr. Lantigua? 3 A. No. He came to my office once for my 50th 4 birthday, which is nearly ten years ago. 5 Q. To your knowledge, did I have any personal 6 relationship with Mr. Lantigua? 7 A. To my knowledge, no. 8 Q. Did you ever see me at any fundraisers, 9 birthday parties, events of any sort for 10 Mr. Lantigua? 11 A. Not that I recall. 12 Q. Did you ever see me at any birthday 13 parties, political fundraisers, political events of 14 any sort for anybody prior to this time? 15 A. Prior to which time? 16 Q. Starting with 2010 and we'll move forward 17 from there. 18 A. Not that I recall. 19 Q. Just to sort of finish up this line of 20 questioning and we'll be done. Have you ever seen 21 me at any political fundraisers, political events or 22 political anything prior to January of 2014? 23 A. Not that I recall. 24 Q. You and I saw each other briefly, for the</p>

<p style="text-align: right;">114</p> <p>1 record, at Mayor Zanni's inauguration in January of 2 2014; is that correct? 3 A. That's correct. 4 Q. Prior to that, are you aware of any 5 political support that I provided for any political 6 candidate at any time? 7 A. Yes. 8 Q. When is that? 9 A. Mr. Iannuccillo. 10 Q. What political support? 11 A. Advice. 12 Q. What advice did I provide to him? 13 A. Discussions, from what etold me, strategies 14 about running for particularly the Registry of 15 Deeds. 16 Q. What did Mr. Iannuccillo tell you? 17 A. Just that he discussed it with you and I 18 think your father. 19 Q. I just want to be specific. What did 20 Mr. Iannuccillo tell you, to your knowledge, he 21 discuss with my father and I regarding political 22 actions? 23 A. Seeking support, seeking assistance, and I 24 don't know what form that was. We didn't have an</p>	<p style="text-align: right;">116</p> <p>1 Carmine DiAdamo, Blanchette, and Mike Sullivan in 2 2005 regarding talking Mike Sullivan out of running 3 for reelection as mayor? 4 A. No, I'm not aware of that. 5 Q. Thank you. 6 (4:30 p.m.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">115</p> <p>1 in-depth conversation about it. But I know that he 2 holds your family in high regard. I know there's 3 been a relationship -- as do I. He discussed that 4 the DiAdamos are with me. 5 Q. Do you know whether my father or I or any 6 member of my family contributed any money to 7 Mr. Iannuccillo? 8 A. No, I don't know that. 9 Q. Do you know if we attended any fundraisers 10 for Mr. Iannuccillo? 11 A. I don't know that either. 12 MR. DIADAMO: I think that's a good 13 place to stop for today and generally suspend and 14 pick this up. 15 MR. CARUSO: Just one follow-up? Only 16 one. 17 EXAMINATION 18 BY MR. CARUSO: 19 Q. You were at a meeting between Carmine 20 DiAdamo and Blanchette and Mike Sullivan in 2005 21 regarding talking Mr. Sullivan out of running for 22 reelection? 23 A. Could you repeat that question. 24 Q. Sure. Are you aware of a meeting between</p>	<p style="text-align: right;">117</p> <p>1 CERTIFICATE OF COURT REPORTER 2 3 4 5 6 I, David A. Arsenault, Registered 7 Professional Reporter, do certify that the 8 deposition of RICHARD D'AGOSTINO, in the matter of 9 DiAdamo v Duggan, et al., on February 20, 2014, was 10 stenographically recorded by me; that the witness 11 provided satisfactory evidence of identification, as 12 prescribed by Executive Order 455 (03-13) issued by 13 the Governor of the Commonwealth of Massachusetts, 14 before being sworn by me, a Notary Public in and for 15 the Commonwealth of Massachusetts; that the 16 transcript produced by me is a true and accurate 17 record of the proceedings to the best of my ability; 18 that I am neither counsel for, related to, nor 19 employed by any of the parties to the above action; 20 and further that I am not a relative or employee of 21 any attorney or counsel employed by the parties 22 thereto, nor financially or otherwise interested in 23 the outcome of the action. 24 Transcript review was requested of the reporter. February 28, 2014 David A. Arsenault, RPR</p>

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT**

ESSEX, ss

SUPERIOR COURT
CIVIL DIVISION
No. 08-1931-D

WILLIAM H. DIADAMO,)	
Plaintiff,)	
)	
v.)	
)	
THOMAS J. DUGGAN, JR,)	
VALLEY PATRIOT, Inc.,)	
MERRIMACK VALLEY RADIO, LLC,)	
JOHN DOE ONE, and)	
JOHN DOE TWO,)	
Defendants.)	
)	

**AFFIDAVIT
OF MICHAEL SWEENEY**

I, Michael Sweeney, being duly sworn do oath hereby state:

1. I am the Director of Planning for the City of Lawrence, Massachusetts; I am also a licensed attorney in the Commonwealth of Massachusetts.
2. William H. DiAdamo came to the Mayor's office at City Hall unannounced on or before the day of the Andrea Traficanti workers' compensation hearing and met with me and another city official.
3. William H. DiAdamo told me and the other city official that he was not prepared to defend the Andrea Traficanti workers' compensation case scheduled for a hearing on or before the day of the hearing.
4. William H. DiAdamo told me that he did not have enough evidence or testimony to argue the case the next day. He said "I don't know what I'm going to do

today/tomorrow.” “I am unprepared.” I was stunned. This was the first time I heard this.

5. I then told William H. DiAdamo that I could and would testify. That maybe he should subpoena me and several current and former City Hall employees to testify. He asked “Are you guys here today/tomorrow?” I said that I would be available the entire time period. He didn’t ask for any other information or materials.
6. Over the next 48 hours I remained available and able to testify at a moment’s notice. I never received a call or other request from Atty. DiAdamo to testify.
7. I further told William H. DiAdamo at that meeting, that I had the names of other people, both current and former City Hall employees, who could help his case. I gave him all the names. I do not know if Atty. DiAdamo called or subpoenaed any of these potential witnesses.
8. At the meeting William H. DiAdamo said that Frank McCann was always in his law office talking to his father, Atty. Carmine DiAdamo, about the Andrea Traficanti case. Atty DiAdamo told me that he was uncomfortable even handling this case. I was shocked at his disclosure and lack of case preparation.
9. At the meeting William H. DiAdamo said that he was uncomfortable handling this case (Andrea Traficanti), was unprepared to answer her allegations; and he asked the question whether we wanted the case to be settled.
10. I asked William H. DiAdamo if he had a conflict in this case after his disclosure regarding Frank McCann. I then told him that I thought he had a conflict handling this case.
11. I made it clear to William H. DiAdamo that I was ready and able to help. But subsequent to my offer at the meeting, there was no communication from Atty.

DiAdamo about my offer, or the results of the hearing, or any requests for the contact information of the people I told him would be willing to help him in the Andrea Traficanti case.

Signed under the pains and penalties of perjury this November 24, 2008.

Michael Sweeney

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. 08-1931-D

WILLIAM H. DIADAMO,)
Plaintiff,)
)
v.)
)
THOMAS J. DUGGAN, JR,)
VALLEY PATRIOT, Inc.,)
MERRIMACK VALLEY RADIO, LLC,)
JOHN DOE ONE, and)
JOHN DOE TWO,)
Defendants.)

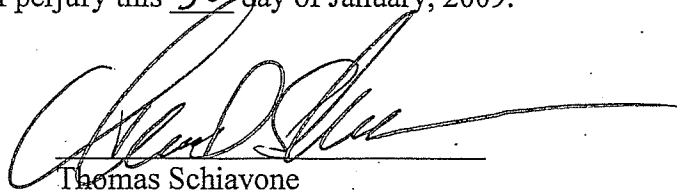
AFFIDAVIT OF THOMAS SCHIAVONE

I, Thomas Schiavone, having been duly sworn, do on oath hereby state that the following is true:

1. I am employed by the City of Lawrence, Massachusetts, and work in the Mayor's Office as the Economic Development Director.
2. I was present when William H. DiAdamo came to the Mayor's Office unannounced on or before the day of the Andrea Traficanti workers' compensation hearing. I do not recall the exact date of the meeting, but I was informed by Attorney DiAdamo that the Traficanti hearing was imminent.
3. I initially met with Attorney DiAdamo in the conference room that served as my office. Once he started talking about the Andrea Traficanti case, I then called Michael Sweeney into the conference room. The three of us then moved into a vestibule in the Mayor's office suite because someone needed the conference room.
4. Attorney DiAdamo asked us in what direction the office wanted him to go regarding the Andrea Traficanti matter. This alarmed both of us, because the administration's position, that Ms. Traficanti's injury claim was contrived, was well-understood. During the conversation, I began to doubt that Attorney DiAdamo was prepared to properly represent the City of Lawrence at the hearing.

5. Michael Sweeney and I both told Attorney DiAdamo that if he needed witnesses to defend against Ms. Traficanti's case, that we would testify. Mr. Sweeney provided Attorney DiAdamo with the names of other people, both current and former City Hall employees, who could help his case and refute Ms. Traficanti's claims. Attorney DiAdamo did not ask for any other information or materials. I do not know if Attorney DiAdamo ever contacted or subpoenaed any of the potential witnesses.
6. At the same meeting, William H. DiAdamo said that Frank McCann (Andrea Traficanti's husband) was always in his law office talking to his father, Attorney Carmine DiAdamo. Attorney DiAdamo told me that he was uncomfortable even handling this case because Frank McCann was friendly with his family. I was alarmed at this disclosure.
7. Following his disclosure regarding Frank McCann, Michael Sweeney asked Attorney DiAdamo if he had a conflict in the Traficanti case. Although Attorney DiAdamo did not admit to having a conflict at the time, he was obviously uncomfortable.
8. I made it clear to Attorney DiAdamo that I was ready and able to help. But subsequent to the meeting, there was no communication from Attorney DiAdamo about my offer or the results of the hearing. No requests were made by Attorney DiAdamo or his office for the contact information of the witnesses that were discussed at the meeting.

Signed under the pains and penalties of perjury this 30 day of January, 2009.



Thomas Schiavone

William H. DiAdamo LLC

Attorney at Law

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**VIA EMAIL AND
FIRST CLASS MAIL**

February 7, 2014

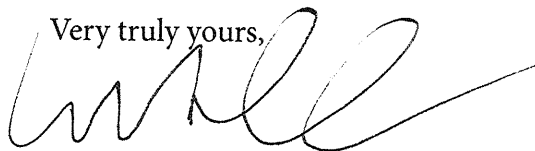
Counsel of Record

RE: *DiAdamo v. Duggan*
Essex Superior Court C.A. No. 2008CV1931

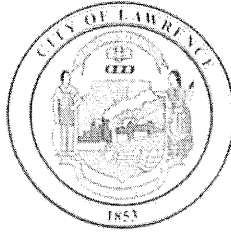
Dear Counsel:

Attached is a copy of the City's waiver. As I have previously explained, and we have discussed at some length, the City has explicitly waived the privilege; however, the City has further requested that I attempt, if possible, to avoid potentially affecting the defense of the Traficanti matter while it is still pending.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. DiAdamo', with a long, sweeping horizontal line extending to the right.

William H. DiAdamo



HONORABLE MAYOR
WILLIAM LANTIGUA

Dear Attorney Boddy and DiAdamo:

This letter will confirm that I, as the duly authorized representative of the City of Lawrence, hereby knowingly and voluntarily waive the attorney-client privilege for Attorney William DiAdamo with respect to the cases involving Andrea Traficanti and Jennifer Padellaro including but not limited to his representation of the City in their Workers' Compensation cases, and hereby permit Attorney DiAdamo to testify as to any and all privileged, non-privileged or potentially privileged communication with any and all current and past employees, officers, agents, or servants of the City.

Mayor William Lantigua